

By the Committee on Regulated Industries; and Senators Baxley, Hutson, and Rodriguez

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1 A bill to be entitled
2 An act relating to community associations; amending s.
3 627.714, F.S.; prohibiting insurance policies from
4 providing specified rights of subrogation under
5 certain circumstances; amending s. 718.103, F.S.;
6 revising the definition of the terms
7 "multicondominium," "operation," and "operation of the
8 condominium"; amending s. 718.111, F.S.; requiring
9 that certain records be maintained for a specified
10 time; prohibiting an association from requiring
11 certain actions relating to the inspection of records;
12 revising requirements relating to the posting of
13 digital copies of certain documents by certain
14 condominium associations; amending s. 718.112, F.S.;
15 authorizing a condominium association to extinguish
16 discriminatory restrictions; revising the calculation
17 used in determining a board member's term limit;
18 providing requirements for certain notices; revising
19 the fees that an association may charge for transfers;
20 deleting a prohibition against employing or
21 contracting with certain service providers; amending
22 s. 718.113, F.S.; revising legislative findings;
23 defining the terms "natural gas fuel" and "natural gas
24 fuel vehicle"; revising requirements for electric
25 vehicle charging stations; providing requirements for
26 natural gas fuel stations on property governed by
27 condominium associations; amending s. 718.117, F.S.;
28 conforming provisions to changes made by the act;
29 amending s. 718.121, F.S.; providing that labor and

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30 materials associated with the installation of a
31 natural gas fuel station may not serve as the basis
32 for filing a lien against an association but may serve
33 as the basis for filing a lien against a unit owner;
34 requiring that notices of intent to record a claim of
35 lien specify certain dates; amending s. 718.1255,
36 F.S.; authorizing parties to initiate presuit
37 mediation under certain circumstances; specifying the
38 circumstances under which arbitration is binding on
39 the parties; providing requirements for presuit
40 mediation; making technical changes; amending s.
41 718.1265, F.S.; revising the emergency powers of
42 condominium associations; prohibiting condominium
43 associations from taking certain actions during a
44 declared state of emergency; amending s. 718.202,
45 F.S.; revising the allowable uses of certain escrow
46 funds withdrawn by developers; defining the term
47 "actual costs"; amending s. 718.303, F.S.; revising
48 requirements for certain actions for failure to comply
49 with specified provisions relating to condominium
50 associations; revising requirements for certain fines;
51 amending s. 718.405, F.S.; providing clarifying
52 language relating to certain multicondominium
53 declarations; providing applicability; amending s.
54 718.501, F.S.; conforming provisions to changes made
55 by the act; amending s. 718.5014, F.S.; revising a
56 requirement regarding the location of the principal
57 office of the Office of the Condominium Ombudsman;
58 amending s. 719.103, F.S.; revising the definition of

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59 the term "unit" to specify that an interest in a
60 cooperative unit is an interest in real property;
61 amending s. 719.104, F.S.; prohibiting an association
62 from requiring certain actions relating to the
63 inspection of records; amending s. 719.106, F.S.;
64 revising provisions relating to a quorum and voting
65 rights for members remotely participating in meetings;
66 revising the procedure to challenge a board member
67 recall; authorizing cooperative associations to
68 extinguish discriminatory restrictions; amending s.
69 719.128, F.S.; revising emergency powers for
70 cooperative associations; prohibiting cooperative
71 associations from taking certain actions during a
72 declared state of emergency; amending s. 720.301,
73 F.S.; revising the definition of the term "governing
74 documents"; amending s. 720.303, F.S.; authorizing an
75 association to adopt procedures for electronic meeting
76 notices; revising the documents that constitute the
77 official records of an association; revising the types
78 of records that are not accessible to members or
79 parcel owners; revising the circumstances under which
80 a specified statement must be included in an
81 association's financial report; revising requirements
82 for such statement; revising the circumstances under
83 which an association is deemed to have provided for
84 reserve accounts; revising the procedure to challenge
85 a board member recall; amending s. 720.305, F.S.;
86 providing requirements for certain fines levied by a
87 board of administration; amending s. 720.306, F.S.;

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88 revising requirements for providing certain notices;
89 providing limitations on associations when a parcel
90 owner attempts to rent or lease his or her parcel;
91 defining the term "affiliated entity"; amending the
92 procedure for election disputes; amending s. 720.307,
93 F.S.; revising the circumstances under which members
94 other than the developer are entitled to elect members
95 to the board of directors of the homeowners'
96 association; amending s. 720.311, F.S.; revising the
97 dispute resolution requirements for election disputes
98 and recall disputes; amending s. 720.3075, F.S.;
99 authorizing homeowners' associations to extinguish
100 discriminatory restrictions; amending s. 720.316,
101 F.S.; revising emergency powers of homeowners'
102 associations; prohibiting homeowners' associations
103 from taking certain actions during a declared state of
104 emergency; providing an effective date.

105
106 Be It Enacted by the Legislature of the State of Florida:

107
108 Section 1. Subsection (4) of section 627.714, Florida
109 Statutes, is amended to read:

110 627.714 Residential condominium unit owner coverage; loss
111 assessment coverage required.—

112 (4) Every individual unit owner's residential property
113 policy must contain a provision stating that the coverage
114 afforded by such policy is excess coverage over the amount
115 recoverable under any other policy covering the same property.

116 If a condominium association's insurance policy does not provide

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117 rights for subrogation against the unit owners in the
118 association, an insurance policy issued to an individual unit
119 owner in the association may not provide rights of subrogation
120 against the condominium association.

121 Section 2. Subsections (20) and (21) of section 718.103,
122 Florida Statutes, are amended to read:

123 718.103 Definitions.—As used in this chapter, the term:

124 (20) "Multicondominium" means real property ~~a real estate~~
125 ~~development~~ containing two or more condominiums, all of which
126 are operated by the same association.

127 (21) "Operation" or "operation of the condominium" includes
128 the administration and management of the condominium property
129 and the association.

130 Section 3. Paragraphs (a), (b), (c), and (g) of subsection
131 (12) of section 718.111, Florida Statutes, are amended to read:

132 718.111 The association.—

133 (12) OFFICIAL RECORDS.—

134 (a) From the inception of the association, the association
135 shall maintain each of the following items, if applicable, which
136 constitutes the official records of the association:

137 1. A copy of the plans, permits, warranties, and other
138 items provided by the developer under ~~pursuant to~~ s. 718.301(4).

139 2. A photocopy of the recorded declaration of condominium
140 of each condominium operated by the association and each
141 amendment to each declaration.

142 3. A photocopy of the recorded bylaws of the association
143 and each amendment to the bylaws.

144 4. A certified copy of the articles of incorporation of the
145 association, or other documents creating the association, and

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146 each amendment thereto.

147 5. A copy of the current rules of the association.

148 6. A book or books that contain the minutes of all meetings
149 of the association, the board of administration, and the unit
150 owners.

151 7. A current roster of all unit owners and their mailing
152 addresses, unit identifications, voting certifications, and, if
153 known, telephone numbers. The association shall also maintain
154 the e-mail addresses and facsimile numbers of unit owners
155 consenting to receive notice by electronic transmission. The e-
156 mail addresses and facsimile numbers are not accessible to unit
157 owners if consent to receive notice by electronic transmission
158 is not provided in accordance with sub-subparagraph (c)3.e.
159 However, the association is not liable for an inadvertent
160 disclosure of the e-mail address or facsimile number for
161 receiving electronic transmission of notices.

162 8. All current insurance policies of the association and
163 condominiums operated by the association.

164 9. A current copy of any management agreement, lease, or
165 other contract to which the association is a party or under
166 which the association or the unit owners have an obligation or
167 responsibility.

168 10. Bills of sale or transfer for all property owned by the
169 association.

170 11. Accounting records for the association and separate
171 accounting records for each condominium that the association
172 operates. Any person who knowingly or intentionally defaces or
173 destroys such records, or who knowingly or intentionally fails
174 to create or maintain such records, with the intent of causing

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175 harm to the association or one or more of its members, is
176 personally subject to a civil penalty pursuant to s.
177 718.501(1)(d). The accounting records must include, but are not
178 limited to:

179 a. Accurate, itemized, and detailed records of all receipts
180 and expenditures.

181 b. A current account and a monthly, bimonthly, or quarterly
182 statement of the account for each unit designating the name of
183 the unit owner, the due date and amount of each assessment, the
184 amount paid on the account, and the balance due.

185 c. All audits, reviews, accounting statements, and
186 financial reports of the association or condominium.

187 d. All contracts for work to be performed. Bids for work to
188 be performed are also considered official records and must be
189 maintained by the association for at least 1 year after receipt
190 of the bid.

191 12. Ballots, sign-in sheets, voting proxies, and all other
192 papers and electronic records relating to voting by unit owners,
193 which must be maintained for 1 year from the date of the
194 election, vote, or meeting to which the document relates,
195 notwithstanding paragraph (b).

196 13. All rental records if the association is acting as
197 agent for the rental of condominium units.

198 14. A copy of the current question and answer sheet as
199 described in s. 718.504.

200 ~~15. All other written records of the association not~~
201 ~~specifically included in the foregoing which are related to the~~
202 ~~operation of the association.~~

203 ~~16.~~ A copy of the inspection report as described in s.

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204 718.301(4)(p).

205 ~~16.17.~~ Bids for materials, equipment, or services.

206 17. All other written records of the association not
207 specified in subparagraphs 1.-16. which are related to the
208 operation of the association.

209 (b) The official records specified in subparagraphs (a)1.-
210 6. must be permanently maintained from the inception of the
211 association. Bids for work to be performed or for materials,
212 equipment, or services must be maintained for at least 1 year
213 after receipt of the bid. All other official records must be
214 maintained within the state for at least 7 years, unless
215 otherwise provided by general law. The records of the
216 association shall be made available to a unit owner within 45
217 miles of the condominium property or within the county in which
218 the condominium property is located within 10 working days after
219 receipt of a written request by the board or its designee.
220 However, such distance requirement does not apply to an
221 association governing a timeshare condominium. This paragraph
222 may be complied with by having a copy of the official records of
223 the association available for inspection or copying on the
224 condominium property or association property, or the association
225 may offer the option of making the records available to a unit
226 owner electronically via the Internet or by allowing the records
227 to be viewed in electronic format on a computer screen and
228 printed upon request. The association is not responsible for the
229 use or misuse of the information provided to an association
230 member or his or her authorized representative in pursuant to
231 ~~the compliance with requirements of~~ this chapter unless the
232 association has an affirmative duty not to disclose such

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233 information under ~~pursuant to~~ this chapter.

234 (c)1. The official records of the association are open to
235 inspection by any association member or the authorized
236 representative of such member at all reasonable times. The right
237 to inspect the records includes the right to make or obtain
238 copies, at the reasonable expense, if any, of the member or
239 authorized representative of such member. A renter of a unit has
240 a right to inspect and copy only the declaration of condominium
241 and the association's bylaws and rules. The association may
242 adopt reasonable rules regarding the frequency, time, location,
243 notice, and manner of record inspections and copying, but may
244 not require a member to demonstrate any purpose or state any
245 reason for the inspection. The failure of an association to
246 provide the records within 10 working days after receipt of a
247 written request creates a rebuttable presumption that the
248 association willfully failed to comply with this paragraph. A
249 unit owner who is denied access to official records is entitled
250 to the actual damages or minimum damages for the association's
251 willful failure to comply. Minimum damages are \$50 per calendar
252 day for up to 10 days, beginning on the 11th working day after
253 receipt of the written request. The failure to permit inspection
254 entitles any person prevailing in an enforcement action to
255 recover reasonable attorney fees from the person in control of
256 the records who, directly or indirectly, knowingly denied access
257 to the records.

258 2. Any person who knowingly or intentionally defaces or
259 destroys accounting records that are required by this chapter to
260 be maintained during the period for which such records are
261 required to be maintained, or who knowingly or intentionally

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262 fails to create or maintain accounting records that are required
263 to be created or maintained, with the intent of causing harm to
264 the association or one or more of its members, is personally
265 subject to a civil penalty pursuant to s. 718.501(1)(d).

266 3. The association shall maintain an adequate number of
267 copies of the declaration, articles of incorporation, bylaws,
268 and rules, and all amendments to each of the foregoing, as well
269 as the question and answer sheet as described in s. 718.504 and
270 year-end financial information required under this section, on
271 the condominium property to ensure their availability to unit
272 owners and prospective purchasers, and may charge its actual
273 costs for preparing and furnishing these documents to those
274 requesting the documents. An association shall allow a member or
275 his or her authorized representative to use a portable device,
276 including a smartphone, tablet, portable scanner, or any other
277 technology capable of scanning or taking photographs, to make an
278 electronic copy of the official records in lieu of the
279 association's providing the member or his or her authorized
280 representative with a copy of such records. The association may
281 not charge a member or his or her authorized representative for
282 the use of a portable device. Notwithstanding this paragraph,
283 the following records are not accessible to unit owners:

284 a. Any record protected by the lawyer-client privilege as
285 described in s. 90.502 and any record protected by the work-
286 product privilege, including a record prepared by an association
287 attorney or prepared at the attorney's express direction, which
288 reflects a mental impression, conclusion, litigation strategy,
289 or legal theory of the attorney or the association, and which
290 was prepared exclusively for civil or criminal litigation or for

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291 adversarial administrative proceedings, or which was prepared in
292 anticipation of such litigation or proceedings until the
293 conclusion of the litigation or proceedings.

294 b. Information obtained by an association in connection
295 with the approval of the lease, sale, or other transfer of a
296 unit.

297 c. Personnel records of association or management company
298 employees, including, but not limited to, disciplinary, payroll,
299 health, and insurance records. For purposes of this sub-
300 subparagraph, the term "personnel records" does not include
301 written employment agreements with an association employee or
302 management company, or budgetary or financial records that
303 indicate the compensation paid to an association employee.

304 d. Medical records of unit owners.

305 e. Social security numbers, driver license numbers, credit
306 card numbers, e-mail addresses, telephone numbers, facsimile
307 numbers, emergency contact information, addresses of a unit
308 owner other than as provided to fulfill the association's notice
309 requirements, and other personal identifying information of any
310 person, excluding the person's name, unit designation, mailing
311 address, property address, and any address, e-mail address, or
312 facsimile number provided to the association to fulfill the
313 association's notice requirements. Notwithstanding the
314 restrictions in this sub-subparagraph, an association may print
315 and distribute to unit ~~parcel~~ owners a directory containing the
316 name, unit ~~parcel~~ address, and all telephone numbers of each
317 unit ~~parcel~~ owner. However, an owner may exclude his or her
318 telephone numbers from the directory by so requesting in writing
319 to the association. An owner may consent in writing to the

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320 disclosure of other contact information described in this sub-
321 subparagraph. The association is not liable for the inadvertent
322 disclosure of information that is protected under this sub-
323 subparagraph if the information is included in an official
324 record of the association and is voluntarily provided by an
325 owner and not requested by the association.

326 f. Electronic security measures that are used by the
327 association to safeguard data, including passwords.

328 g. The software and operating system used by the
329 association which allow the manipulation of data, even if the
330 owner owns a copy of the same software used by the association.
331 The data is part of the official records of the association.

332 (g)1. By January 1, 2019, an association managing a
333 condominium with 150 or more units which does not contain
334 timeshare units shall post digital copies of the documents
335 specified in subparagraph 2. on its website or make such
336 documents available through an application that can be
337 downloaded on a mobile device.

338 a. The association's website or application must be:

339 (I) An independent website, application, or web portal
340 wholly owned and operated by the association; or

341 (II) A website, application, or web portal operated by a
342 third-party provider with whom the association owns, leases,
343 rents, or otherwise obtains the right to operate a web page,
344 subpage, web portal, ~~or~~ collection of subpages or web portals,
345 or an application which is dedicated to the association's
346 activities and on which required notices, records, and documents
347 may be posted or made available by the association.

348 b. The association's website or application must be

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349 accessible through the Internet and must contain a subpage, web
350 portal, or other protected electronic location that is
351 inaccessible to the general public and accessible only to unit
352 owners and employees of the association.

353 c. Upon a unit owner's written request, the association
354 must provide the unit owner with a username and password and
355 access to the protected sections of the association's website or
356 application which ~~that~~ contain any notices, records, or
357 documents that must be electronically provided.

358 2. A current copy of the following documents must be posted
359 in digital format on the association's website or application:

360 a. The recorded declaration of condominium of each
361 condominium operated by the association and each amendment to
362 each declaration.

363 b. The recorded bylaws of the association and each
364 amendment to the bylaws.

365 c. The articles of incorporation of the association, or
366 other documents creating the association, and each amendment to
367 the articles of incorporation or other documents ~~thereto~~. The
368 copy posted pursuant to this sub-subparagraph must be a copy of
369 the articles of incorporation filed with the Department of
370 State.

371 d. The rules of the association.

372 e. A list of all executory contracts or documents to which
373 the association is a party or under which the association or the
374 unit owners have an obligation or responsibility and, after
375 bidding for the related materials, equipment, or services has
376 closed, a list of bids received by the association within the
377 past year. Summaries of bids for materials, equipment, or

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378 services which exceed \$500 must be maintained on the website or
379 application for 1 year. In lieu of summaries, complete copies of
380 the bids may be posted.

381 f. The annual budget required by s. 718.112(2)(f) and any
382 proposed budget to be considered at the annual meeting.

383 g. The financial report required by subsection (13) and any
384 monthly income or expense statement to be considered at a
385 meeting.

386 h. The certification of each director required by s.
387 718.112(2)(d)4.b.

388 i. All contracts or transactions between the association
389 and any director, officer, corporation, firm, or association
390 that is not an affiliated condominium association or any other
391 entity in which an association director is also a director or
392 officer and financially interested.

393 j. Any contract or document regarding a conflict of
394 interest or possible conflict of interest as provided in ss.
395 468.436(2)(b)6. and 718.3027(3).

396 k. The notice of any unit owner meeting and the agenda for
397 the meeting, as required by s. 718.112(2)(d)3., no later than 14
398 days before the meeting. The notice must be posted in plain view
399 on the front page of the website or application, or on a
400 separate subpage of the website or application labeled "Notices"
401 which is conspicuously visible and linked from the front page.
402 The association must also post on its website or application any
403 document to be considered and voted on by the owners during the
404 meeting or any document listed on the agenda at least 7 days
405 before the meeting at which the document or the information
406 within the document will be considered.

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407 1. Notice of any board meeting, the agenda, and any other
408 document required for the meeting as required by s.
409 718.112(2)(c), which must be posted no later than the date
410 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

411 3. The association shall ensure that the information and
412 records described in paragraph (c), which are not allowed to be
413 accessible to unit owners, are not posted on the association's
414 website or application. If protected information or information
415 restricted from being accessible to unit owners is included in
416 documents that are required to be posted on the association's
417 website or application, the association shall ensure the
418 information is redacted before posting the documents ~~online~~.
419 Notwithstanding the foregoing, the association or its agent is
420 not liable for disclosing information that is protected or
421 restricted under ~~pursuant to~~ this paragraph unless such
422 disclosure was made with a knowing or intentional disregard of
423 the protected or restricted nature of such information.

424 4. The failure of the association to post information
425 required under subparagraph 2. is not in and of itself
426 sufficient to invalidate any action or decision of the
427 association's board or its committees.

428 Section 4. Paragraphs (d), (i), (j), (k), and (p) of
429 subsection (2) of section 718.112, Florida Statutes, are
430 amended, and paragraph (c) is added to subsection (1) of that
431 section, to read:

432 718.112 Bylaws.—

433 (1) GENERALLY.—

434 (c) The association may extinguish a discriminatory
435 restriction as provided under s. 712.065.

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436 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
437 following and, if they do not do so, shall be deemed to include
438 the following:

439 (d) *Unit owner meetings.*—

440 1. An annual meeting of the unit owners must be held at the
441 location provided in the association bylaws and, if the bylaws
442 are silent as to the location, the meeting must be held within
443 45 miles of the condominium property. However, such distance
444 requirement does not apply to an association governing a
445 timeshare condominium.

446 2. Unless the bylaws provide otherwise, a vacancy on the
447 board caused by the expiration of a director's term must be
448 filled by electing a new board member, and the election must be
449 by secret ballot. An election is not required if the number of
450 vacancies equals or exceeds the number of candidates. For
451 purposes of this paragraph, the term "candidate" means an
452 eligible person who has timely submitted the written notice, as
453 described in sub-subparagraph 4.a., of his or her intention to
454 become a candidate. Except in a timeshare or nonresidential
455 condominium, or if the staggered term of a board member does not
456 expire until a later annual meeting, or if all members' terms
457 would otherwise expire but there are no candidates, the terms of
458 all board members expire at the annual meeting, and such members
459 may stand for reelection unless prohibited by the bylaws. Board
460 members may serve terms longer than 1 year if permitted by the
461 bylaws or articles of incorporation. A board member may not
462 serve more than 8 consecutive years unless approved by an
463 affirmative vote of unit owners representing two-thirds of all
464 votes cast in the election or unless there are not enough

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465 eligible candidates to fill the vacancies on the board at the
466 time of the vacancy. Only board service that occurs on or after
467 July 1, 2018, may be used when calculating a board member's term
468 limit. If the number of board members whose terms expire at the
469 annual meeting equals or exceeds the number of candidates, the
470 candidates become members of the board effective upon the
471 adjournment of the annual meeting. Unless the bylaws provide
472 otherwise, any remaining vacancies shall be filled by the
473 affirmative vote of the majority of the directors making up the
474 newly constituted board even if the directors constitute less
475 than a quorum or there is only one director. In a residential
476 condominium association of more than 10 units or in a
477 residential condominium association that does not include
478 timeshare units or timeshare interests, co-owners of a unit may
479 not serve as members of the board of directors at the same time
480 unless they own more than one unit or unless there are not
481 enough eligible candidates to fill the vacancies on the board at
482 the time of the vacancy. A unit owner in a residential
483 condominium desiring to be a candidate for board membership must
484 comply with sub-subparagraph 4.a. and must be eligible to be a
485 candidate to serve on the board of directors at the time of the
486 deadline for submitting a notice of intent to run in order to
487 have his or her name listed as a proper candidate on the ballot
488 or to serve on the board. A person who has been suspended or
489 removed by the division under this chapter, or who is delinquent
490 in the payment of any monetary obligation due to the
491 association, is not eligible to be a candidate for board
492 membership and may not be listed on the ballot. A person who has
493 been convicted of any felony in this state or in a United States

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494 District or Territorial Court, or who has been convicted of any
495 offense in another jurisdiction which would be considered a
496 felony if committed in this state, is not eligible for board
497 membership unless such felon's civil rights have been restored
498 for at least 5 years as of the date such person seeks election
499 to the board. The validity of an action by the board is not
500 affected if it is later determined that a board member is
501 ineligible for board membership due to having been convicted of
502 a felony. This subparagraph does not limit the term of a member
503 of the board of a nonresidential or timeshare condominium.

504 3. The bylaws must provide the method of calling meetings
505 of unit owners, including annual meetings. Written notice of an
506 annual meeting must include an agenda; ~~it must~~ be mailed, hand
507 delivered, or electronically transmitted to each unit owner at
508 least 14 days before the annual meeting; ~~it~~ and ~~must~~ be posted in
509 a conspicuous place on the condominium property or association
510 property at least 14 continuous days before the annual meeting.
511 Written notice of a meeting other than an annual meeting must
512 include an agenda; be mailed, hand delivered, or electronically
513 transmitted to each unit owner; and be posted in a conspicuous
514 place on the condominium property or association property within
515 the timeframe specified in the bylaws. If the bylaws do not
516 specify a timeframe for written notice of a meeting other than
517 an annual meeting, notice must be provided at least 14
518 continuous days before the meeting. Upon notice to the unit
519 owners, the board shall, by duly adopted rule, designate a
520 specific location on the condominium property or association
521 property where all notices of unit owner meetings must be
522 posted. This requirement does not apply if there is no

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523 condominium property for posting notices. In lieu of, or in
524 addition to, the physical posting of meeting notices, the
525 association may, by reasonable rule, adopt a procedure for
526 conspicuously posting and repeatedly broadcasting the notice and
527 the agenda on a closed-circuit cable television system serving
528 the condominium association. However, if broadcast notice is
529 used in lieu of a notice posted physically on the condominium
530 property, the notice and agenda must be broadcast at least four
531 times every broadcast hour of each day that a posted notice is
532 otherwise required under this section. If broadcast notice is
533 provided, the notice and agenda must be broadcast in a manner
534 and for a sufficient continuous length of time so as to allow an
535 average reader to observe the notice and read and comprehend the
536 entire content of the notice and the agenda. In addition to any
537 of the authorized means of providing notice of a meeting of the
538 board, the association may, by rule, adopt a procedure for
539 conspicuously posting the meeting notice and the agenda on a
540 website serving the condominium association for at least the
541 minimum period of time for which a notice of a meeting is also
542 required to be physically posted on the condominium property.
543 Any rule adopted shall, in addition to other matters, include a
544 requirement that the association send an electronic notice in
545 the same manner as a notice for a meeting of the members, which
546 must include a hyperlink to the website where the notice is
547 posted, to unit owners whose e-mail addresses are included in
548 the association's official records. Unless a unit owner waives
549 in writing the right to receive notice of the annual meeting,
550 such notice must be hand delivered, mailed, or electronically
551 transmitted to each unit owner. Notice for meetings and notice

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552 for all other purposes must be mailed to each unit owner at the
553 address last furnished to the association by the unit owner, or
554 hand delivered to each unit owner. However, if a unit is owned
555 by more than one person, the association must provide notice to
556 the address that the developer identifies for that purpose and
557 thereafter as one or more of the owners of the unit advise the
558 association in writing, or if no address is given or the owners
559 of the unit do not agree, to the address provided on the deed of
560 record. An officer of the association, or the manager or other
561 person providing notice of the association meeting, must provide
562 an affidavit or United States Postal Service certificate of
563 mailing, to be included in the official records of the
564 association affirming that the notice was mailed or hand
565 delivered in accordance with this provision.

566 4. The members of the board of a residential condominium
567 shall be elected by written ballot or voting machine. Proxies
568 may not be used in electing the board in general elections or
569 elections to fill vacancies caused by recall, resignation, or
570 otherwise, unless otherwise provided in this chapter. This
571 subparagraph does not apply to an association governing a
572 timeshare condominium.

573 a. At least 60 days before a scheduled election, the
574 association shall mail, deliver, or electronically transmit, by
575 separate association mailing or included in another association
576 mailing, delivery, or transmission, including regularly
577 published newsletters, to each unit owner entitled to a vote, a
578 first notice of the date of the election. A unit owner or other
579 eligible person desiring to be a candidate for the board must
580 give written notice of his or her intent to be a candidate to

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581 the association at least 40 days before a scheduled election.
582 Together with the written notice and agenda as set forth in
583 subparagraph 3., the association shall mail, deliver, or
584 electronically transmit a second notice of the election to all
585 unit owners entitled to vote, together with a ballot that lists
586 all candidates not less than 14 days or more than 34 days before
587 the date of the election. Upon request of a candidate, an
588 information sheet, no larger than 8 1/2 inches by 11 inches,
589 which must be furnished by the candidate at least 35 days before
590 the election, must be included with the mailing, delivery, or
591 transmission of the ballot, with the costs of mailing, delivery,
592 or electronic transmission and copying to be borne by the
593 association. The association is not liable for the contents of
594 the information sheets prepared by the candidates. In order to
595 reduce costs, the association may print or duplicate the
596 information sheets on both sides of the paper. The division
597 shall by rule establish voting procedures consistent with this
598 sub-subparagraph, including rules establishing procedures for
599 giving notice by electronic transmission and rules providing for
600 the secrecy of ballots. Elections shall be decided by a
601 plurality of ballots cast. There is no quorum requirement;
602 however, at least 20 percent of the eligible voters must cast a
603 ballot in order to have a valid election. A unit owner may not
604 authorize any other person to vote his or her ballot, and any
605 ballots improperly cast are invalid. A unit owner who violates
606 this provision may be fined by the association in accordance
607 with s. 718.303. A unit owner who needs assistance in casting
608 the ballot for the reasons stated in s. 101.051 may obtain such
609 assistance. The regular election must occur on the date of the

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610 annual meeting. Notwithstanding this sub-subparagraph, an
611 election is not required unless more candidates file notices of
612 intent to run or are nominated than board vacancies exist.

613 b. Within 90 days after being elected or appointed to the
614 board of an association of a residential condominium, each newly
615 elected or appointed director shall certify in writing to the
616 secretary of the association that he or she has read the
617 association's declaration of condominium, articles of
618 incorporation, bylaws, and current written policies; that he or
619 she will work to uphold such documents and policies to the best
620 of his or her ability; and that he or she will faithfully
621 discharge his or her fiduciary responsibility to the
622 association's members. In lieu of this written certification,
623 within 90 days after being elected or appointed to the board,
624 the newly elected or appointed director may submit a certificate
625 of having satisfactorily completed the educational curriculum
626 administered by a division-approved condominium education
627 provider within 1 year before or 90 days after the date of
628 election or appointment. The written certification or
629 educational certificate is valid and does not have to be
630 resubmitted as long as the director serves on the board without
631 interruption. A director of an association of a residential
632 condominium who fails to timely file the written certification
633 or educational certificate is suspended from service on the
634 board until he or she complies with this sub-subparagraph. The
635 board may temporarily fill the vacancy during the period of
636 suspension. The secretary shall cause the association to retain
637 a director's written certification or educational certificate
638 for inspection by the members for 5 years after a director's

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639 election or the duration of the director's uninterrupted tenure,
640 whichever is longer. Failure to have such written certification
641 or educational certificate on file does not affect the validity
642 of any board action.

643 c. Any challenge to the election process must be commenced
644 within 60 days after the election results are announced.

645 5. Any approval by unit owners called for by this chapter
646 or the applicable declaration or bylaws, including, but not
647 limited to, the approval requirement in s. 718.111(8), must be
648 made at a duly noticed meeting of unit owners and is subject to
649 all requirements of this chapter or the applicable condominium
650 documents relating to unit owner decisionmaking, except that
651 unit owners may take action by written agreement, without
652 meetings, on matters for which action by written agreement
653 without meetings is expressly allowed by the applicable bylaws
654 or declaration or any law that provides for such action.

655 6. Unit owners may waive notice of specific meetings if
656 allowed by the applicable bylaws or declaration or any law.
657 Notice of meetings of the board of administration, unit owner
658 meetings, except unit owner meetings called to recall board
659 members under paragraph (j), and committee meetings may be given
660 by electronic transmission to unit owners who consent to receive
661 notice by electronic transmission. A unit owner who consents to
662 receiving notices by electronic transmission is solely
663 responsible for removing or bypassing filters that block receipt
664 of mass e-mails ~~emails~~ sent to members on behalf of the
665 association in the course of giving electronic notices.

666 7. Unit owners have the right to participate in meetings of
667 unit owners with reference to all designated agenda items.

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668 However, the association may adopt reasonable rules governing
669 the frequency, duration, and manner of unit owner participation.

670 8. A unit owner may tape record or videotape a meeting of
671 the unit owners subject to reasonable rules adopted by the
672 division.

673 9. Unless otherwise provided in the bylaws, any vacancy
674 occurring on the board before the expiration of a term may be
675 filled by the affirmative vote of the majority of the remaining
676 directors, even if the remaining directors constitute less than
677 a quorum, or by the sole remaining director. In the alternative,
678 a board may hold an election to fill the vacancy, in which case
679 the election procedures must conform to sub-subparagraph 4.a.
680 unless the association governs 10 units or fewer and has opted
681 out of the statutory election process, in which case the bylaws
682 of the association control. Unless otherwise provided in the
683 bylaws, a board member appointed or elected under this section
684 shall fill the vacancy for the unexpired term of the seat being
685 filled. Filling vacancies created by recall is governed by
686 paragraph (j) and rules adopted by the division.

687 10. This chapter does not limit the use of general or
688 limited proxies, require the use of general or limited proxies,
689 or require the use of a written ballot or voting machine for any
690 agenda item or election at any meeting of a timeshare
691 condominium association or nonresidential condominium
692 association.

693
694 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
695 association of 10 or fewer units may, by affirmative vote of a
696 majority of the total voting interests, provide for different

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697 voting and election procedures in its bylaws, which may be by a
698 proxy specifically delineating the different voting and election
699 procedures. The different voting and election procedures may
700 provide for elections to be conducted by limited or general
701 proxy.

702 (i) *Transfer fees.*—An association may not ~~no~~ charge a fee
703 ~~shall be made by the association or any body thereof~~ in
704 connection with the sale, mortgage, lease, sublease, or other
705 transfer of a unit unless the association is required to approve
706 such transfer and a fee for such approval is provided for in the
707 declaration, articles, or bylaws. Any such fee may be preset,
708 but may not ~~in no event may such fee~~ exceed \$150 ~~\$100~~ per
709 applicant. For the purpose of calculating the fee, spouses or a
710 parent or parents and any dependent children ~~other than~~
711 ~~husband/wife or parent/dependent child, which~~ are considered one
712 applicant. However, if the lease or sublease is a renewal of a
713 lease or sublease with the same lessee or sublessee, a charge
714 may not ~~no charge shall~~ be made. Such fees must be adjusted
715 every 5 years in an amount equal to the total of the annual
716 increases occurring in the Consumer Price Index for All Urban
717 Consumers, U.S. City Average, All Items during that 5-year
718 period. The Department of Business and Professional Regulation
719 shall periodically calculate the fees, rounded to the nearest
720 dollar, and publish the amounts, as adjusted, on its website.
721 The foregoing notwithstanding, ~~an association may,~~ if the
722 authority to do so appears in the declaration, articles, or
723 bylaws, an association may require that a prospective lessee
724 place a security deposit, in an amount not to exceed the
725 equivalent of 1 month's rent, into an escrow account maintained

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726 by the association. The security deposit shall protect against
727 damages to the common elements or association property. Payment
728 of interest, claims against the deposit, refunds, and disputes
729 under this paragraph shall be handled in the same fashion as
730 provided in part II of chapter 83.

731 (j) *Recall of board members.*—Subject to s. 718.301, any
732 member of the board of administration may be recalled and
733 removed from office with or without cause by the vote or
734 agreement in writing by a majority of all the voting interests.
735 A special meeting of the unit owners to recall a member or
736 members of the board of administration may be called by 10
737 percent of the voting interests giving notice of the meeting as
738 required for a meeting of unit owners, and the notice shall
739 state the purpose of the meeting. Electronic transmission may
740 not be used as a method of giving notice of a meeting called in
741 whole or in part for this purpose.

742 1. If the recall is approved by a majority of all voting
743 interests by a vote at a meeting, the recall will be effective
744 as provided in this paragraph. The board shall duly notice and
745 hold a board meeting within 5 full business days after the
746 adjournment of the unit owner meeting to recall one or more
747 board members. Such member or members shall be recalled
748 effective immediately upon conclusion of the board meeting,
749 provided that the recall is facially valid. A recalled member
750 must turn over to the board, within 10 full business days after
751 the vote, any and all records and property of the association in
752 their possession.

753 2. If the proposed recall is by an agreement in writing by
754 a majority of all voting interests, the agreement in writing or

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755 a copy thereof shall be served on the association by certified
756 mail or by personal service in the manner authorized by chapter
757 48 and the Florida Rules of Civil Procedure. The board of
758 administration shall duly notice and hold a meeting of the board
759 within 5 full business days after receipt of the agreement in
760 writing. Such member or members shall be recalled effective
761 immediately upon the conclusion of the board meeting, provided
762 that the recall is facially valid. A recalled member must turn
763 over to the board, within 10 full business days, any and all
764 records and property of the association in their possession.

765 3. If the board fails to duly notice and hold a board
766 meeting within 5 full business days after service of an
767 agreement in writing or within 5 full business days after the
768 adjournment of the unit owner recall meeting, the recall is
769 ~~shall be~~ deemed effective and the board members so recalled
770 shall turn over to the board within 10 full business days after
771 the vote any and all records and property of the association.

772 4. If the board fails to duly notice and hold the required
773 meeting or at the conclusion of the meeting determines that the
774 recall is not facially valid, the unit owner representative may
775 file a petition or court action under ~~pursuant to~~ s. 718.1255
776 challenging the board's failure to act or challenging the
777 board's determination on facial validity. The petition or action
778 must be filed within 60 days after the expiration of the
779 applicable 5-full-business-day period. The review of a petition
780 or action under this subparagraph is limited to the sufficiency
781 of service on the board and the facial validity of the written
782 agreement or ballots filed.

783 5. If a vacancy occurs on the board as a result of a recall

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784 or removal and less than a majority of the board members are
785 removed, the vacancy may be filled by the affirmative vote of a
786 majority of the remaining directors, notwithstanding any
787 provision to the contrary contained in this subsection. If
788 vacancies occur on the board as a result of a recall and a
789 majority or more of the board members are removed, the vacancies
790 shall be filled in accordance with procedural rules to be
791 adopted by the division, which rules need not be consistent with
792 this subsection. The rules must provide procedures governing the
793 conduct of the recall election as well as the operation of the
794 association during the period after a recall but before the
795 recall election.

796 6. A board member who has been recalled may file a petition
797 or court action under ~~pursuant to~~ s. 718.1255 challenging the
798 validity of the recall. The petition or action must be filed
799 within 60 days after the recall. The association and the unit
800 owner representative shall be named as the respondents. The
801 petition or action may challenge the facial validity of the
802 written agreement or ballots filed or the substantial compliance
803 with the procedural requirements for the recall. If the
804 arbitrator or court determines the recall was invalid, the
805 petitioning board member shall immediately be reinstated and the
806 recall is null and void. A board member who is successful in
807 challenging a recall is entitled to recover reasonable attorney
808 fees and costs from the respondents. The arbitrator or court may
809 award reasonable attorney fees and costs to the respondents if
810 they prevail, if the arbitrator or court makes a finding that
811 the petitioner's claim is frivolous.

812 7. The division or a court of competent jurisdiction may

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813 not accept for filing a recall petition or court action, whether
814 filed under ~~pursuant to~~ subparagraph 1., subparagraph 2.,
815 subparagraph 4., or subparagraph 6., when there are 60 or fewer
816 days until the scheduled reelection of the board member sought
817 to be recalled or when 60 or fewer days have elapsed since the
818 election of the board member sought to be recalled.

819 (k) Alternative dispute resolution Arbitration.—There must
820 shall be a provision for alternative dispute resolution
821 ~~mandatory nonbinding arbitration~~ as provided for in s. 718.1255
822 for any residential condominium.

823 ~~(p) Service providers; conflicts of interest. An~~
824 ~~association, which is not a timeshare condominium association,~~
825 ~~may not employ or contract with any service provider that is~~
826 ~~owned or operated by a board member or with any person who has a~~
827 ~~financial relationship with a board member or officer, or a~~
828 ~~relative within the third degree of consanguinity by blood or~~
829 ~~marriage of a board member or officer. This paragraph does not~~
830 ~~apply to a service provider in which a board member or officer,~~
831 ~~or a relative within the third degree of consanguinity by blood~~
832 ~~or marriage of a board member or officer, owns less than 1~~
833 ~~percent of the equity shares.~~

834 Section 5. Subsection (8) of section 718.113, Florida
835 Statutes, is amended to read:

836 718.113 Maintenance; limitation upon improvement; display
837 of flag; hurricane shutters and protection; display of religious
838 decorations.—

839 (8) The Legislature finds that the use of electric and
840 natural gas fuel vehicles conserves and protects the state's
841 environmental resources, provides significant economic savings

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842 to drivers, and serves an important public interest. The
843 participation of condominium associations is essential to the
844 state's efforts to conserve and protect the state's
845 environmental resources and provide economic savings to drivers.
846 For purposes of this subsection, the term "natural gas fuel" has
847 the same meaning as in s. 206.9951, and the term "natural gas
848 fuel vehicle" means any motor vehicle, as defined in s. 320.01,
849 that is powered by natural gas fuel. Therefore, the installation
850 of an electric vehicle charging station or a natural gas fuel
851 station shall be governed as follows:

852 (a) A declaration of condominium or restrictive covenant
853 may not prohibit or be enforced so as to prohibit any unit owner
854 from installing an electric vehicle charging station or a
855 natural gas fuel station within the boundaries of the unit
856 owner's limited common element or exclusively designated parking
857 area. The board of administration of a condominium association
858 may not prohibit a unit owner from installing an electric
859 vehicle charging station for an electric vehicle, as defined in
860 s. 320.01, or a natural gas fuel station for a natural gas fuel
861 vehicle within the boundaries of his or her limited common
862 element or exclusively designated parking area. The installation
863 of such charging or fuel stations are subject to the provisions
864 of this subsection.

865 (b) The installation may not cause irreparable damage to
866 the condominium property.

867 (c) The electricity for the electric vehicle charging
868 station or natural gas fuel station must be separately metered
869 or metered by an embedded meter and payable by the unit owner
870 installing such charging or fuel station or by his or her

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871 successor.

872 (d) The cost for supply and storage of the natural gas fuel
873 must be paid by the unit owner installing the natural gas fuel
874 station or by his or her successor.

875 (e) ~~(d)~~ The unit owner who is installing an electric vehicle
876 charging station or a natural gas fuel station is responsible
877 for the costs of installation, operation, maintenance, and
878 repair, including, but not limited to, hazard and liability
879 insurance. The association may enforce payment of such costs
880 under ~~pursuant to~~ s. 718.116.

881 (f) ~~(e)~~ If the unit owner or his or her successor decides
882 there is no longer a need for the electric ~~electronic~~ vehicle
883 charging station or natural gas fuel station, such person is
884 responsible for the cost of removal of such ~~the electronic~~
885 ~~vehicle~~ charging or fuel station. The association may enforce
886 payment of such costs under ~~pursuant to~~ s. 718.116.

887 (g) The unit owner installing, maintaining, or removing the
888 electric vehicle charging station or natural gas fuel station is
889 responsible for complying with all federal, state, or local laws
890 and regulations applicable to such installation, maintenance, or
891 removal.

892 (h) ~~(f)~~ The association may require the unit owner to:

893 1. Comply with bona fide safety requirements, consistent
894 with applicable building codes or recognized safety standards,
895 for the protection of persons and property.

896 2. Comply with reasonable architectural standards adopted
897 by the association that govern the dimensions, placement, or
898 external appearance of the electric vehicle charging station or
899 natural gas fuel station, provided that such standards may not

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900 prohibit the installation of such charging or fuel station or
901 substantially increase the cost thereof.

902 3. Engage the services of a licensed and registered firm
903 ~~electrical contractor or engineer~~ familiar with the installation
904 or removal and core requirements of an electric vehicle charging
905 station or a natural gas fuel station.

906 4. Provide a certificate of insurance naming the
907 association as an additional insured on the owner's insurance
908 policy for any claim related to the installation, maintenance,
909 or use of the electric vehicle charging station or natural gas
910 fuel station within 14 days after receiving the association's
911 approval to install such charging or fuel station or notice to
912 provide such a certificate.

913 5. Reimburse the association for the actual cost of any
914 increased insurance premium amount attributable to the electric
915 vehicle charging station or natural gas fuel station within 14
916 days after receiving the association's insurance premium
917 invoice.

918 (i) ~~(g)~~ The association provides an implied easement across
919 the common elements of the condominium property to the unit
920 owner for purposes of ~~the installation of the~~ electric vehicle
921 charging station or natural gas fuel station installation, and
922 the furnishing of electrical power or natural gas fuel supply,
923 including any necessary equipment, to such charging or fuel
924 station, subject to the requirements of this subsection.

925 Section 6. Subsection (16) of section 718.117, Florida
926 Statutes, is amended to read:

927 718.117 Termination of condominium.—

928 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a

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929 plan of termination by initiating a petition in accordance with
930 ~~for mandatory nonbinding arbitration pursuant to s. 718.1255~~
931 within 90 days after the date the plan is recorded. A unit owner
932 or lienor may only contest the fairness and reasonableness of
933 the apportionment of the proceeds from the sale among the unit
934 owners, that the liens of the first mortgages of unit owners
935 other than the bulk owner have not or will not be satisfied to
936 the extent required by subsection (3), or that the required vote
937 to approve the plan was not obtained. A unit owner or lienor who
938 does not contest the plan within the 90-day period is barred
939 from asserting or prosecuting a claim against the association,
940 the termination trustee, any unit owner, or any successor in
941 interest to the condominium property. In an action contesting a
942 plan of termination, the person contesting the plan has the
943 burden of pleading and proving that the apportionment of the
944 proceeds from the sale among the unit owners was not fair and
945 reasonable or that the required vote was not obtained. The
946 apportionment of sale proceeds is presumed fair and reasonable
947 if it was determined pursuant to the methods prescribed in
948 subsection (12). If the petition is filed with the division for
949 arbitration, the arbitrator shall determine the rights and
950 interests of the parties in the apportionment of the sale
951 proceeds. If the arbitrator determines that the apportionment of
952 sales proceeds is not fair and reasonable, the arbitrator may
953 void the plan or may modify the plan to apportion the proceeds
954 in a fair and reasonable manner pursuant to this section based
955 upon the proceedings and order the modified plan of termination
956 to be implemented. If the arbitrator determines that the plan
957 was not properly approved, or that the procedures to adopt the

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958 plan were not properly followed, the arbitrator may void the
959 plan or grant other relief it deems just and proper. The
960 arbitrator shall automatically void the plan upon a finding that
961 any of the disclosures required in subparagraph (3)(c)5. are
962 omitted, misleading, incomplete, or inaccurate. Any challenge to
963 a plan, other than a challenge that the required vote was not
964 obtained, does not affect title to the condominium property or
965 the vesting of the condominium property in the trustee, but
966 shall only be a claim against the proceeds of the plan. In any
967 such action, the prevailing party shall recover reasonable
968 attorney fees and costs.

969 Section 7. Subsections (2) and (4) of section 718.121,
970 Florida Statutes, are amended to read:

971 718.121 Liens.—

972 (2) Labor performed on or materials furnished to a unit may
973 ~~shall~~ not be the basis for the filing of a lien under ~~pursuant~~
974 ~~to~~ part I of chapter 713, the Construction Lien Law, against the
975 unit or condominium parcel of any unit owner not expressly
976 consenting to or requesting the labor or materials. Labor
977 performed on or materials furnished for the installation of a
978 natural gas fuel station or an electric ~~electronic~~ vehicle
979 charging station under ~~pursuant to~~ s. 718.113(8) may not be the
980 basis for filing a lien under part I of chapter 713 against the
981 association, but such a lien may be filed against the unit
982 owner. Labor performed on or materials furnished to the common
983 elements are not the basis for a lien on the common elements,
984 but if authorized by the association, the labor or materials are
985 deemed to be performed or furnished with the express consent of
986 each unit owner and may be the basis for the filing of a lien

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987 against all condominium parcels in the proportions for which the
988 owners are liable for common expenses.

989 (4) Except as otherwise provided in this chapter, no lien
990 may be filed by the association against a condominium unit until
991 30 days after the date on which a notice of intent to file a
992 lien has been delivered to the owner by registered or certified
993 mail, return receipt requested, and by first-class United States
994 mail to the owner at his or her last address as reflected in the
995 records of the association, if the address is within the United
996 States, and delivered to the owner at the address of the unit if
997 the owner's address as reflected in the records of the
998 association is not the unit address. If the address reflected in
999 the records is outside the United States, sending the notice to
1000 that address and to the unit address by first-class United
1001 States mail is sufficient. ~~Delivery of the Notice is shall be~~
1002 deemed to have been delivered ~~given~~ upon mailing as required by
1003 this subsection, provided that it is. ~~The notice must be~~ in
1004 substantially the following form:

1005
1006 NOTICE OF INTENT
1007 TO RECORD A CLAIM OF LIEN

1008
1009 RE: Unit of ...(name of association)...

1010
1011 The following amounts are currently due on your
1012 account to ...(name of association)..., and must be
1013 paid within 30 days after your receipt of this letter.
1014 This letter shall serve as the association's notice of
1015 intent to record a Claim of Lien against your property

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1016	no sooner than 30 days after your receipt of this	
1017	letter, unless you pay in full the amounts set forth	
1018	below:	
1019		
1020	Maintenance due ...(dates)...	\$.....
1021	Late fee, if applicable	\$.....
1022	Interest through ...(dates)...	\$.....
1023	Certified mail charges <u>...(dates)...</u>	\$.....
1024	Other costs	\$.....
1025	TOTAL OUTSTANDING	\$.....

1026

1027 *Interest accrues at the rate of percent per annum.

1028 Section 8. Section 718.1255, Florida Statutes, is amended

1029 to read:

1030 718.1255 Alternative dispute resolution; ~~voluntary~~

1031 mediation; ~~mandatory~~ nonbinding arbitration; legislative

1032 findings.—

1033 (1) DEFINITIONS.—As used in this section, the term

1034 “dispute” means any disagreement between two or more parties

1035 that involves:

1036 (a) The authority of the board of directors, under this

1037 chapter or association document, to:

1038 1. Require any owner to take any action, or not to take any

1039 action, involving that owner’s unit or the appurtenances

1040 thereto.

1041 2. Alter or add to a common area or element.

1042 (b) The failure of a governing body, when required by this

1043 chapter or an association document, to:

1044 1. Properly conduct elections.

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1045 2. Give adequate notice of meetings or other actions.

1046 3. Properly conduct meetings.

1047 4. Allow inspection of books and records.

1048 (c) A plan of termination pursuant to s. 718.117.

1049
1050 "Dispute" does not include any disagreement that primarily
1051 involves: title to any unit or common element; the
1052 interpretation or enforcement of any warranty; the levy of a fee
1053 or assessment, or the collection of an assessment levied against
1054 a party; the eviction or other removal of a tenant from a unit;
1055 alleged breaches of fiduciary duty by one or more directors; or
1056 claims for damages to a unit based upon the alleged failure of
1057 the association to maintain the common elements or condominium
1058 property.

1059 (2) ~~VOLUNTARY MEDIATION.~~ Voluntary Mediation through
1060 Citizen Dispute Settlement Centers as provided for in s. 44.201
1061 is encouraged.

1062 (3) LEGISLATIVE FINDINGS.—

1063 (a) The Legislature finds that unit owners are frequently
1064 at a disadvantage when litigating against an association.
1065 Specifically, a condominium association, with its statutory
1066 assessment authority, is often more able to bear the costs and
1067 expenses of litigation than the unit owner who must rely on his
1068 or her own financial resources to satisfy the costs of
1069 litigation against the association.

1070 (b) The Legislature finds that alternative dispute
1071 resolution has been making progress in reducing court dockets
1072 and trials and in offering a more efficient, cost-effective
1073 option to court litigation. However, the Legislature also finds

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1074 that alternative dispute resolution should not be used as a
1075 mechanism to encourage the filing of frivolous or nuisance
1076 suits.

1077 (c) There exists a need to develop a flexible means of
1078 alternative dispute resolution that directs disputes to the most
1079 efficient means of resolution.

1080 (d) The high cost and significant delay of circuit court
1081 litigation faced by unit owners in the state can be alleviated
1082 by requiring nonbinding arbitration and mediation in appropriate
1083 cases, thereby reducing delay and attorney ~~attorney's~~ fees while
1084 preserving the right of either party to have its case heard by a
1085 jury, if applicable, in a court of law.

1086 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
1087 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
1088 Mobile Homes of the Department of Business and Professional
1089 Regulation may employ full-time attorneys to act as arbitrators
1090 to conduct the arbitration hearings provided by this chapter.
1091 The division may also certify attorneys who are not employed by
1092 the division to act as arbitrators to conduct the arbitration
1093 hearings provided by this chapter. A ~~No~~ person may not be
1094 employed by the department as a full-time arbitrator unless he
1095 or she is a member in good standing of The Florida Bar. A person
1096 may only be certified by the division to act as an arbitrator if
1097 he or she has been a member in good standing of The Florida Bar
1098 for at least 5 years and has mediated or arbitrated at least 10
1099 disputes involving condominiums in this state during the 3 years
1100 immediately preceding the date of application, mediated or
1101 arbitrated at least 30 disputes in any subject area in this
1102 state during the 3 years immediately preceding the date of

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1103 application, or attained board certification in real estate law
1104 or condominium and planned development law from The Florida Bar.
1105 Arbitrator certification is valid for 1 year. An arbitrator who
1106 does not maintain the minimum qualifications for initial
1107 certification may not have his or her certification renewed. The
1108 department may not enter into a legal services contract for an
1109 arbitration hearing under this chapter with an attorney who is
1110 not a certified arbitrator unless a certified arbitrator is not
1111 available within 50 miles of the dispute. The department shall
1112 adopt rules of procedure to govern such arbitration hearings
1113 including mediation incident thereto. The decision of an
1114 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
1115 ~~be~~ deemed final agency action. Nothing in this provision shall
1116 be construed to foreclose parties from proceeding in a trial de
1117 novo unless the parties have agreed that the arbitration is
1118 binding. If judicial proceedings are initiated, the final
1119 decision of the arbitrator is ~~shall be~~ admissible in evidence in
1120 the trial de novo.

1121 (a) Before ~~Prior to~~ the institution of court litigation, a
1122 party to a dispute, other than an election or recall dispute,
1123 shall either petition the division for nonbinding arbitration or
1124 initiate presuit mediation as provided in subsection (5).
1125 Arbitration is binding on the parties if all parties in
1126 arbitration agree to be bound in a writing filed in arbitration.
1127 The petition must be accompanied by a filing fee in the amount
1128 of \$50. Filing fees collected under this section must be used to
1129 defray the expenses of the alternative dispute resolution
1130 program.

1131 (b) The petition must recite, and have attached thereto,

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1132 supporting proof that the petitioner gave the respondents:

1133 1. Advance written notice of the specific nature of the
1134 dispute;

1135 2. A demand for relief, and a reasonable opportunity to
1136 comply or to provide the relief; and

1137 3. Notice of the intention to file an arbitration petition
1138 or other legal action in the absence of a resolution of the
1139 dispute.

1140
1141 Failure to include the allegations or proof of compliance with
1142 these prerequisites requires dismissal of the petition without
1143 prejudice.

1144 (c) Upon receipt, the petition shall be promptly reviewed
1145 by the division to determine the existence of a dispute and
1146 compliance with the requirements of paragraphs (a) and (b). If
1147 emergency relief is required and is not available through
1148 arbitration, a motion to stay the arbitration may be filed. The
1149 motion must be accompanied by a verified petition alleging facts
1150 that, if proven, would support entry of a temporary injunction,
1151 and if an appropriate motion and supporting papers are filed,
1152 the division may abate the arbitration pending a court hearing
1153 and disposition of a motion for temporary injunction.

1154 (d) Upon determination by the division that a dispute
1155 exists and that the petition substantially meets the
1156 requirements of paragraphs (a) and (b) and any other applicable
1157 rules, the division shall assign or enter into a contract with
1158 an arbitrator and serve a copy of the petition upon all
1159 respondents. The arbitrator shall conduct a hearing within 30
1160 days after being assigned or entering into a contract unless the

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1161 petition is withdrawn or a continuance is granted for good cause
1162 shown.

1163 (e) Before or after the filing of the respondents' answer
1164 to the petition, any party may request that the arbitrator refer
1165 the case to mediation under this section and any rules adopted
1166 by the division. Upon receipt of a request for mediation, the
1167 division shall promptly contact the parties to determine if
1168 there is agreement that mediation would be appropriate. If all
1169 parties agree, the dispute must be referred to mediation.
1170 Notwithstanding a lack of an agreement by all parties, the
1171 arbitrator may refer a dispute to mediation at any time.

1172 (f) Upon referral of a case to mediation, the parties must
1173 select a mutually acceptable mediator. To assist in the
1174 selection, the arbitrator shall provide the parties with a list
1175 of both volunteer and paid mediators that have been certified by
1176 the division under s. 718.501. If the parties are unable to
1177 agree on a mediator within the time allowed by the arbitrator,
1178 the arbitrator shall appoint a mediator from the list of
1179 certified mediators. If a case is referred to mediation, the
1180 parties shall attend a mediation conference, as scheduled by the
1181 parties and the mediator. If any party fails to attend a duly
1182 noticed mediation conference, without the permission or approval
1183 of the arbitrator or mediator, the arbitrator must impose
1184 sanctions against the party, including the striking of any
1185 pleadings filed, the entry of an order of dismissal or default
1186 if appropriate, and the award of costs and attorney fees
1187 incurred by the other parties. Unless otherwise agreed to by the
1188 parties or as provided by order of the arbitrator, a party is
1189 deemed to have appeared at a mediation conference by the

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1190 physical presence of the party or its representative having full
1191 authority to settle without further consultation, provided that
1192 an association may comply by having one or more representatives
1193 present with full authority to negotiate a settlement and
1194 recommend that the board of administration ratify and approve
1195 such a settlement within 5 days from the date of the mediation
1196 conference. The parties shall share equally the expense of
1197 mediation, unless they agree otherwise.

1198 (g) The purpose of mediation as provided for by this
1199 section is to present the parties with an opportunity to resolve
1200 the underlying dispute in good faith, and with a minimum
1201 expenditure of time and resources.

1202 (h) Mediation proceedings must generally be conducted in
1203 accordance with the Florida Rules of Civil Procedure, and these
1204 proceedings are privileged and confidential to the same extent
1205 as court-ordered mediation. Persons who are not parties to the
1206 dispute are not allowed to attend the mediation conference
1207 without the consent of all parties, with the exception of
1208 counsel for the parties and corporate representatives designated
1209 to appear for a party. If the mediator declares an impasse after
1210 a mediation conference has been held, the arbitration proceeding
1211 terminates, unless all parties agree in writing to continue the
1212 arbitration proceeding, in which case the arbitrator's decision
1213 shall be binding or nonbinding, as agreed upon by the parties;
1214 in the arbitration proceeding, the arbitrator shall not consider
1215 any evidence relating to the unsuccessful mediation except in a
1216 proceeding to impose sanctions for failure to appear at the
1217 mediation conference. If the parties do not agree to continue
1218 arbitration, the arbitrator shall enter an order of dismissal,

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1219 and either party may institute a suit in a court of competent
1220 jurisdiction. The parties may seek to recover any costs and
1221 attorney fees incurred in connection with arbitration and
1222 mediation proceedings under this section as part of the costs
1223 and fees that may be recovered by the prevailing party in any
1224 subsequent litigation.

1225 (i) Arbitration shall be conducted according to rules
1226 adopted by the division. The filing of a petition for
1227 arbitration shall toll the applicable statute of limitations.

1228 (j) At the request of any party to the arbitration, the
1229 arbitrator shall issue subpoenas for the attendance of witnesses
1230 and the production of books, records, documents, and other
1231 evidence and any party on whose behalf a subpoena is issued may
1232 apply to the court for orders compelling such attendance and
1233 production. Subpoenas shall be served and shall be enforceable
1234 in the manner provided by the Florida Rules of Civil Procedure.
1235 Discovery may, in the discretion of the arbitrator, be permitted
1236 in the manner provided by the Florida Rules of Civil Procedure.
1237 Rules adopted by the division may authorize any reasonable
1238 sanctions except contempt for a violation of the arbitration
1239 procedural rules of the division or for the failure of a party
1240 to comply with a reasonable nonfinal order issued by an
1241 arbitrator which is not under judicial review.

1242 (k) The arbitration decision shall be rendered within 30
1243 days after the hearing and presented to the parties in writing.
1244 An arbitration decision is final in those disputes in which the
1245 parties have agreed to be bound. An arbitration decision is also
1246 final if a complaint for a trial de novo is not filed in a court
1247 of competent jurisdiction in which the condominium is located

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1248 within 30 days. The right to file for a trial de novo entitles
1249 the parties to file a complaint in the appropriate trial court
1250 for a judicial resolution of the dispute. The prevailing party
1251 in an arbitration proceeding shall be awarded the costs of the
1252 arbitration and reasonable attorney fees in an amount determined
1253 by the arbitrator. Such an award shall include the costs and
1254 reasonable attorney fees incurred in the arbitration proceeding
1255 as well as the costs and reasonable attorney fees incurred in
1256 preparing for and attending any scheduled mediation. An
1257 arbitrator's failure to render a written decision within 30 days
1258 after the hearing may result in the cancellation of his or her
1259 arbitration certification.

1260 (l) The party who files a complaint for a trial de novo
1261 shall be assessed the other party's arbitration costs, court
1262 costs, and other reasonable costs, including attorney fees,
1263 investigation expenses, and expenses for expert or other
1264 testimony or evidence incurred after the arbitration hearing if
1265 the judgment upon the trial de novo is not more favorable than
1266 the arbitration decision. If the judgment is more favorable, the
1267 party who filed a complaint for trial de novo shall be awarded
1268 reasonable court costs and attorney fees.

1269 (m) Any party to an arbitration proceeding may enforce an
1270 arbitration award by filing a petition in a court of competent
1271 jurisdiction in which the condominium is located. A petition may
1272 not be granted unless the time for appeal by the filing of a
1273 complaint for trial de novo has expired. If a complaint for a
1274 trial de novo has been filed, a petition may not be granted with
1275 respect to an arbitration award that has been stayed. If the
1276 petition for enforcement is granted, the petitioner shall

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1277 recover reasonable attorney fees and costs incurred in enforcing
 1278 the arbitration award. A mediation settlement may also be
 1279 enforced through the county or circuit court, as applicable, and
 1280 any costs and fees incurred in the enforcement of a settlement
 1281 agreement reached at mediation must be awarded to the prevailing
 1282 party in any enforcement action.

1283 (5) PRESUIT MEDIATION.—In lieu of the initiation of
 1284 nonbinding arbitration as provided in subsections (1)-(4), a
 1285 party may submit a dispute to presuit mediation in accordance
 1286 with s. 720.311; however, election and recall disputes are not
 1287 eligible for mediation and such disputes must be arbitrated by
 1288 the division or filed in a court of competent jurisdiction.

1289 (6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every
 1290 arbitration petition received by the division and required to be
 1291 filed under this section challenging the legality of the
 1292 election of any director of the board of administration must be
 1293 handled on an expedited basis in the manner provided by the
 1294 division's rules for recall arbitration disputes.

1295 (7) ~~(6)~~ APPLICABILITY.—This section does not apply to a
 1296 nonresidential condominium unless otherwise specifically
 1297 provided for in the declaration of the nonresidential
 1298 condominium.

1299 Section 9. Section 718.1265, Florida Statutes, is amended
 1300 to read:

1301 718.1265 Association emergency powers.—

1302 (1) To the extent allowed by law, and unless specifically
 1303 prohibited by the declaration of condominium, the articles, or
 1304 the bylaws of an association, and consistent with ~~the provisions~~
 1305 ~~of~~ s. 617.0830, the board of administration, in response to

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1306 damage or injury caused by or anticipated in connection with an
1307 emergency, as defined in s. 252.34(4), ~~event~~ for which a state
1308 of emergency is declared pursuant to s. 252.36 in the locale in
1309 which the condominium is located, ~~may, but is not required to,~~
1310 exercise the following powers:

1311 (a) Conduct board meetings, committee meetings, elections,
1312 and membership meetings, in whole or in part, by telephone,
1313 real-time videoconferencing, or similar real-time electronic or
1314 video communication with notice given as is practicable. Such
1315 notice may be given in any practicable manner, including
1316 publication, radio, United States mail, the Internet, electronic
1317 transmission, public service announcements, and conspicuous
1318 posting on the condominium property or association property or
1319 any other means the board deems reasonable under the
1320 circumstances. Notice of ~~board~~ decisions also may be
1321 communicated as provided in this paragraph.

1322 (b) Cancel and reschedule any association meeting.

1323 (c) Name as assistant officers persons who are not
1324 directors, which assistant officers shall have the same
1325 authority as the executive officers to whom they are assistants
1326 during the state of emergency to accommodate the incapacity or
1327 unavailability of any officer of the association.

1328 (d) Relocate the association's principal office or
1329 designate alternative principal offices.

1330 (e) Enter into agreements with local counties and
1331 municipalities to assist counties and municipalities with debris
1332 removal.

1333 (f) Implement a disaster plan or an emergency plan before,
1334 during, or ~~immediately~~ following the event for which a state of

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1335 emergency is declared which may include, but is not limited to,
1336 shutting down or off elevators; electricity; water, sewer, or
1337 security systems; or air conditioners.

1338 (g) Based upon advice of emergency management officials or
1339 public health officials, or upon the advice of licensed
1340 professionals retained by or otherwise available to the board,
1341 determine any portion of the condominium property or association
1342 property unavailable for entry or occupancy by unit owners,
1343 family members, tenants, guests, agents, or invitees to protect
1344 the health, safety, or welfare of such persons.

1345 (h) Require the evacuation of the condominium property in
1346 the event of a mandatory evacuation order in the locale in which
1347 the condominium is located. Should any unit owner or other
1348 occupant of a condominium fail or refuse to evacuate the
1349 condominium property or association property where the board has
1350 required evacuation, the association shall be immune from
1351 liability or injury to persons or property arising from such
1352 failure or refusal.

1353 (i) Based upon advice of emergency management officials or
1354 public health officials, or upon the advice of licensed
1355 professionals retained by or otherwise available to the board,
1356 determine whether the condominium property, association
1357 property, or any portion thereof can be safely inhabited,
1358 accessed, or occupied. However, such determination is not
1359 conclusive as to any determination of habitability pursuant to
1360 the declaration.

1361 (j) Mitigate further damage, injury, or contagion,
1362 including taking action to contract for the removal of debris
1363 and to prevent or mitigate the spread of fungus or contagion,

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1364 including, but not limited to, mold or mildew, by removing and
1365 disposing of wet drywall, insulation, carpet, cabinetry, or
1366 other fixtures on or within the condominium property, even if
1367 the unit owner is obligated by the declaration or law to insure
1368 or replace those fixtures and to remove personal property from a
1369 unit.

1370 (k) Contract, on behalf of any unit owner or owners, for
1371 items or services for which the owners are otherwise
1372 individually responsible, but which are necessary to prevent
1373 further injury, contagion, or damage to the condominium property
1374 or association property. In such event, the unit owner or owners
1375 on whose behalf the board has contracted are responsible for
1376 reimbursing the association for the actual costs of the items or
1377 services, and the association may use its lien authority
1378 provided by s. 718.116 to enforce collection of the charges.
1379 Without limitation, such items or services may include the
1380 drying of units, the boarding of broken windows or doors, ~~and~~
1381 the replacement of damaged air conditioners or air handlers to
1382 provide climate control in the units or other portions of the
1383 property, and the sanitizing of the condominium property or
1384 association property, as applicable.

1385 (l) Regardless of any provision to the contrary and even if
1386 such authority does not specifically appear in the declaration
1387 of condominium, articles, or bylaws of the association, levy
1388 special assessments without a vote of the owners.

1389 (m) Without unit owners' approval, borrow money and pledge
1390 association assets as collateral to fund emergency repairs and
1391 carry out the duties of the association when operating funds are
1392 insufficient. This paragraph does not limit the general

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1393 authority of the association to borrow money, subject to such
1394 restrictions as are contained in the declaration of condominium,
1395 articles, or bylaws of the association.

1396 (2) The special powers authorized under subsection (1)
1397 shall be limited to that time reasonably necessary to protect
1398 the health, safety, and welfare of the association and the unit
1399 owners and the unit owners' family members, tenants, guests,
1400 agents, or invitees and shall be reasonably necessary to
1401 mitigate further damage, injury, or contagion and make emergency
1402 repairs.

1403 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
1404 of emergency declared by executive order or proclamation of the
1405 Governor pursuant to s. 252.36, an association may not prohibit
1406 unit owners, tenants, guests, agents, or invitees of a unit
1407 owner from accessing the unit and the common elements and
1408 limited common elements appurtenant thereto for the purposes of
1409 ingress to and egress from the unit and when access is necessary
1410 in connection with:

1411 (a) The sale, lease, or other transfer of title of a unit;
1412 or

1413 (b) The habitability of the unit or for the health and
1414 safety of such person unless a governmental order or
1415 determination, or a public health directive from the Centers for
1416 Disease Control and Prevention, has been issued prohibiting such
1417 access to the unit. Any such access is subject to reasonable
1418 restrictions adopted by the association.

1419 Section 10. Subsection (3) of section 718.202, Florida
1420 Statutes, is amended to read:

1421 718.202 Sales or reservation deposits prior to closing.—

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1422 (3) If the contract for sale of the condominium unit so
1423 provides, the developer may withdraw escrow funds in excess of
1424 10 percent of the purchase price from the special account
1425 required by subsection (2) when the construction of improvements
1426 has begun. He or she may use the funds for the actual costs
1427 incurred by the developer in the ~~actual~~ construction and
1428 development of the condominium property in which the unit to be
1429 sold is located. For purposes of this subsection, the term
1430 "actual costs" includes, but is not limited to, expenditures for
1431 demolition, site clearing, permit fees, impact fees, and utility
1432 reservation fees, as well as architectural, engineering, and
1433 surveying fees that directly relate to construction and
1434 development of the condominium property. However, no part of
1435 these funds may be used for salaries, commissions, or expenses
1436 of salespersons; ~~or~~ for advertising, marketing, or promotional
1437 purposes; or for loan fees and costs, principal and interest on
1438 loans, attorney fees, accounting fees, or insurance costs. A
1439 contract which permits use of the advance payments for these
1440 purposes shall include the following legend conspicuously
1441 printed or stamped in boldfaced type on the first page of the
1442 contract and immediately above the place for the signature of
1443 the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE
1444 PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS
1445 CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

1446 Section 11. Subsection (1) and paragraph (b) of subsection
1447 (3) of section 718.303, Florida Statutes, are amended to read:

1448 718.303 Obligations of owners and occupants; remedies.—

1449 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1450 ~~each~~ association is governed by, and must comply with the

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1451 provisions of, this chapter, the declaration, the documents
 1452 creating the association, and the association bylaws which are
 1453 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
 1454 Actions at law or in equity ~~for damages or for injunctive~~
 1455 ~~relief~~, or both, for failure to comply with these provisions may
 1456 be brought by the association or by a unit owner against:

1457 (a) The association.

1458 (b) A unit owner.

1459 (c) Directors designated by the developer, for actions
 1460 taken by them before control of the association is assumed by
 1461 unit owners other than the developer.

1462 (d) Any director who willfully and knowingly fails to
 1463 comply with these provisions.

1464 (e) Any tenant leasing a unit, and any other invitee
 1465 occupying a unit.

1466
 1467 The prevailing party in any such action or in any action in
 1468 which the purchaser claims a right of voidability based upon
 1469 contractual provisions as required in s. 718.503(1)(a) is
 1470 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
 1471 owner prevailing in an action between the association and the
 1472 unit owner under this subsection ~~section~~, in addition to
 1473 recovering his or her reasonable attorney ~~attorney's~~ fees, may
 1474 recover additional amounts as determined by the court to be
 1475 necessary to reimburse the unit owner for his or her share of
 1476 assessments levied by the association to fund its expenses of
 1477 the litigation. This relief does not exclude other remedies
 1478 provided by law. Actions arising under this subsection are not
 1479 considered ~~may not be deemed to be~~ actions for specific

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1480 performance.

1481 (3) The association may levy reasonable fines for the
1482 failure of the owner of the unit or its occupant, licensee, or
1483 invitee to comply with any provision of the declaration, the
1484 association bylaws, or reasonable rules of the association. A
1485 fine may not become a lien against a unit. A fine may be levied
1486 by the board on the basis of each day of a continuing violation,
1487 with a single notice and opportunity for hearing before a
1488 committee as provided in paragraph (b). However, the fine may
1489 not exceed \$100 per violation, or \$1,000 in the aggregate.

1490 (b) A fine or suspension levied by the board of
1491 administration may not be imposed unless the board first
1492 provides at least 14 days' written notice to the unit owner and,
1493 if applicable, any tenant ~~occupant~~, licensee, or invitee of the
1494 unit owner sought to be fined or suspended, and an opportunity
1495 for a hearing before a committee of at least three members
1496 appointed by the board who are not officers, directors, or
1497 employees of the association, or the spouse, parent, child,
1498 brother, or sister of an officer, director, or employee. The
1499 role of the committee is limited to determining whether to
1500 confirm or reject the fine or suspension levied by the board. If
1501 the committee does not approve the proposed fine or suspension
1502 by majority vote, the fine or suspension may not be imposed. If
1503 the proposed fine or suspension is approved by the committee,
1504 the fine payment is due 5 days after notice of the approved fine
1505 is provided to the unit owner and, if applicable, to any tenant,
1506 licensee, or invitee of the unit owner ~~the date of the committee~~
1507 ~~meeting at which the fine is approved~~. The association must
1508 provide written notice of such fine or suspension by mail or

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1509 hand delivery to the unit owner and, if applicable, to any
1510 tenant, licensee, or invitee of the unit owner.

1511 Section 12. Subsection (5) is added to section 718.405,
1512 Florida Statutes, to read:

1513 718.405 Multicondominiums; multicondominium associations.—

1514 (5) This section does not prevent or restrict a
1515 multicondominium association from adopting a consolidated or
1516 combined declaration of condominium if such declaration complies
1517 with s. 718.104 and does not serve to merge the condominiums or
1518 change the legal descriptions of the condominium parcels as set
1519 forth in s. 718.109, unless accomplished in accordance with law.
1520 This section is intended to clarify existing law and applies to
1521 associations existing on July 1, 2021.

1522 Section 13. Section 718.501, Florida Statutes, is amended
1523 to read:

1524 718.501 Authority, responsibility, and duties of Division
1525 of Florida Condominiums, Timeshares, and Mobile Homes.—

1526 (1) The division may enforce and ensure compliance with ~~the~~
1527 ~~provisions of~~ this chapter and rules relating to the
1528 development, construction, sale, lease, ownership, operation,
1529 and management of residential condominium units. In performing
1530 its duties, the division has complete jurisdiction to
1531 investigate complaints and enforce compliance with respect to
1532 associations that are still under developer control or the
1533 control of a bulk assignee or bulk buyer pursuant to part VII of
1534 this chapter and complaints against developers, bulk assignees,
1535 or bulk buyers involving improper turnover or failure to
1536 turnover, pursuant to s. 718.301. However, after turnover has
1537 occurred, the division has jurisdiction to investigate

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1538 complaints related only to financial issues, elections, and the
1539 maintenance of and unit owner access to association records
1540 under ~~pursuant to~~ s. 718.111(12).

1541 (a)1. The division may make necessary public or private
1542 investigations within or outside this state to determine whether
1543 any person has violated this chapter or any rule or order
1544 hereunder, to aid in the enforcement of this chapter, or to aid
1545 in the adoption of rules or forms.

1546 2. The division may submit any official written report,
1547 worksheet, or other related paper, or a duly certified copy
1548 thereof, compiled, prepared, drafted, or otherwise made by and
1549 duly authenticated by a financial examiner or analyst to be
1550 admitted as competent evidence in any hearing in which the
1551 financial examiner or analyst is available for cross-examination
1552 and attests under oath that such documents were prepared as a
1553 result of an examination or inspection conducted pursuant to
1554 this chapter.

1555 (b) The division may require or permit any person to file a
1556 statement in writing, under oath or otherwise, as the division
1557 determines, as to the facts and circumstances concerning a
1558 matter to be investigated.

1559 (c) For the purpose of any investigation under this
1560 chapter, the division director or any officer or employee
1561 designated by the division director may administer oaths or
1562 affirmations, subpoena witnesses and compel their attendance,
1563 take evidence, and require the production of any matter which is
1564 relevant to the investigation, including the existence,
1565 description, nature, custody, condition, and location of any
1566 books, documents, or other tangible things and the identity and

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1567 location of persons having knowledge of relevant facts or any
1568 other matter reasonably calculated to lead to the discovery of
1569 material evidence. Upon the failure by a person to obey a
1570 subpoena or to answer questions propounded by the investigating
1571 officer and upon reasonable notice to all affected persons, the
1572 division may apply to the circuit court for an order compelling
1573 compliance.

1574 (d) Notwithstanding any remedies available to unit owners
1575 and associations, if the division has reasonable cause to
1576 believe that a violation of any provision of this chapter or
1577 related rule has occurred, the division may institute
1578 enforcement proceedings in its own name against any developer,
1579 bulk assignee, bulk buyer, association, officer, or member of
1580 the board of administration, or its assignees or agents, as
1581 follows:

1582 1. The division may permit a person whose conduct or
1583 actions may be under investigation to waive formal proceedings
1584 and enter into a consent proceeding whereby orders, rules, or
1585 letters of censure or warning, whether formal or informal, may
1586 be entered against the person.

1587 2. The division may issue an order requiring the developer,
1588 bulk assignee, bulk buyer, association, developer-designated
1589 officer, or developer-designated member of the board of
1590 administration, developer-designated assignees or agents, bulk
1591 assignee-designated assignees or agents, bulk buyer-designated
1592 assignees or agents, community association manager, or community
1593 association management firm to cease and desist from the
1594 unlawful practice and take such affirmative action as in the
1595 judgment of the division carry out the purposes of this chapter.

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1596 If the division finds that a developer, bulk assignee, bulk
1597 buyer, association, officer, or member of the board of
1598 administration, or its assignees or agents, is violating or is
1599 about to violate any provision of this chapter, any rule adopted
1600 or order issued by the division, or any written agreement
1601 entered into with the division, and presents an immediate danger
1602 to the public requiring an immediate final order, it may issue
1603 an emergency cease and desist order reciting with particularity
1604 the facts underlying such findings. The emergency cease and
1605 desist order is effective for 90 days. If the division begins
1606 nonemergency cease and desist proceedings, the emergency cease
1607 and desist order remains effective until the conclusion of the
1608 proceedings under ss. 120.569 and 120.57.

1609 3. If a developer, bulk assignee, or bulk buyer, fails to
1610 pay any restitution determined by the division to be owed, plus
1611 any accrued interest at the highest rate permitted by law,
1612 within 30 days after expiration of any appellate time period of
1613 a final order requiring payment of restitution or the conclusion
1614 of any appeal thereof, whichever is later, the division must
1615 bring an action in circuit or county court on behalf of any
1616 association, class of unit owners, lessees, or purchasers for
1617 restitution, declaratory relief, injunctive relief, or any other
1618 available remedy. The division may also temporarily revoke its
1619 acceptance of the filing for the developer to which the
1620 restitution relates until payment of restitution is made.

1621 4. The division may petition the court for appointment of a
1622 receiver or conservator. If appointed, the receiver or
1623 conservator may take action to implement the court order to
1624 ensure the performance of the order and to remedy any breach

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1625 thereof. In addition to all other means provided by law for the
1626 enforcement of an injunction or temporary restraining order, the
1627 circuit court may impound or sequester the property of a party
1628 defendant, including books, papers, documents, and related
1629 records, and allow the examination and use of the property by
1630 the division and a court-appointed receiver or conservator.

1631 5. The division may apply to the circuit court for an order
1632 of restitution whereby the defendant in an action brought under
1633 ~~pursuant to~~ subparagraph 4. is ordered to make restitution of
1634 those sums shown by the division to have been obtained by the
1635 defendant in violation of this chapter. At the option of the
1636 court, such restitution is payable to the conservator or
1637 receiver appointed under ~~pursuant to~~ subparagraph 4. or directly
1638 to the persons whose funds or assets were obtained in violation
1639 of this chapter.

1640 6. The division may impose a civil penalty against a
1641 developer, bulk assignee, or bulk buyer, or association, or its
1642 assignee or agent, for any violation of this chapter or related
1643 rule. The division may impose a civil penalty individually
1644 against an officer or board member who willfully and knowingly
1645 violates ~~a provision of~~ this chapter, adopted rule, or a final
1646 order of the division; may order the removal of such individual
1647 as an officer or from the board of administration or as an
1648 officer of the association; and may prohibit such individual
1649 from serving as an officer or on the board of a community
1650 association for a period of time. The term "willfully and
1651 knowingly" means that the division informed the officer or board
1652 member that his or her action or intended action violates this
1653 chapter, a rule adopted under this chapter, or a final order of

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1654 the division and that the officer or board member refused to
1655 comply with the requirements of this chapter, a rule adopted
1656 under this chapter, or a final order of the division. The
1657 division, before initiating formal agency action under chapter
1658 120, must afford the officer or board member an opportunity to
1659 voluntarily comply, and an officer or board member who complies
1660 within 10 days is not subject to a civil penalty. A penalty may
1661 be imposed on the basis of each day of continuing violation, but
1662 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
1663 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
1664 applicable to possible violations or to categories of violations
1665 of this chapter or rules adopted by the division. The guidelines
1666 must specify a meaningful range of civil penalties for each such
1667 violation of the statute and rules and must be based upon the
1668 harm caused by the violation, the repetition of the violation,
1669 and upon such other factors deemed relevant by the division. For
1670 example, the division may consider whether the violations were
1671 committed by a developer, bulk assignee, or bulk buyer, or
1672 owner-controlled association, the size of the association, and
1673 other factors. The guidelines must designate the possible
1674 mitigating or aggravating circumstances that justify a departure
1675 from the range of penalties provided by the rules. It is the
1676 legislative intent that minor violations be distinguished from
1677 those which endanger the health, safety, or welfare of the
1678 condominium residents or other persons and that such guidelines
1679 provide reasonable and meaningful notice to the public of likely
1680 penalties that may be imposed for proscribed conduct. This
1681 subsection does not limit the ability of the division to
1682 informally dispose of administrative actions or complaints by

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1683 stipulation, agreed settlement, or consent order. All amounts
1684 collected shall be deposited with the Chief Financial Officer to
1685 the credit of the Division of Florida Condominiums, Timeshares,
1686 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
1687 bulk buyer fails to pay the civil penalty and the amount deemed
1688 to be owed to the association, the division shall issue an order
1689 directing that such developer, bulk assignee, or bulk buyer
1690 cease and desist from further operation until such time as the
1691 civil penalty is paid or may pursue enforcement of the penalty
1692 in a court of competent jurisdiction. If an association fails to
1693 pay the civil penalty, the division shall pursue enforcement in
1694 a court of competent jurisdiction, and the order imposing the
1695 civil penalty or the cease and desist order is not effective
1696 until 20 days after the date of such order. Any action commenced
1697 by the division shall be brought in the county in which the
1698 division has its executive offices or in the county where the
1699 violation occurred.

1700 7. If a unit owner presents the division with proof that
1701 the unit owner has requested access to official records in
1702 writing by certified mail, and that after 10 days the unit owner
1703 again made the same request for access to official records in
1704 writing by certified mail, and that more than 10 days has
1705 elapsed since the second request and the association has still
1706 failed or refused to provide access to official records as
1707 required by this chapter, the division shall issue a subpoena
1708 requiring production of the requested records where the records
1709 are kept pursuant to s. 718.112.

1710 8. In addition to subparagraph 6., the division may seek
1711 the imposition of a civil penalty through the circuit court for

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1712 any violation for which the division may issue a notice to show
1713 cause under paragraph (r). The civil penalty shall be at least
1714 \$500 but no more than \$5,000 for each violation. The court may
1715 also award to the prevailing party court costs and reasonable
1716 attorney ~~attorney's~~ fees and, if the division prevails, may also
1717 award reasonable costs of investigation.

1718 (e) The division may prepare and disseminate a prospectus
1719 and other information to assist prospective owners, purchasers,
1720 lessees, and developers of residential condominiums in assessing
1721 the rights, privileges, and duties pertaining thereto.

1722 (f) The division may adopt rules to administer and enforce
1723 ~~the provisions of~~ this chapter.

1724 (g) The division shall establish procedures for providing
1725 notice to an association and the developer, bulk assignee, or
1726 bulk buyer during the period in which the developer, bulk
1727 assignee, or bulk buyer controls the association if the division
1728 is considering the issuance of a declaratory statement with
1729 respect to the declaration of condominium or any related
1730 document governing such condominium community.

1731 (h) The division shall furnish each association that pays
1732 the fees required by paragraph (2)(a) a copy of this chapter, as
1733 amended, and the rules adopted thereto on an annual basis.

1734 (i) The division shall annually provide each association
1735 with a summary of declaratory statements and formal legal
1736 opinions relating to the operations of condominiums which were
1737 rendered by the division during the previous year.

1738 (j) The division shall provide training and educational
1739 programs for condominium association board members and unit
1740 owners. The training may, in the division's discretion, include

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1741 web-based electronic media, and live training and seminars in
1742 various locations throughout the state. The division may review
1743 and approve education and training programs for board members
1744 and unit owners offered by providers and shall maintain a
1745 current list of approved programs and providers and make such
1746 list available to board members and unit owners in a reasonable
1747 and cost-effective manner.

1748 (k) The division shall maintain a toll-free telephone
1749 number accessible to condominium unit owners.

1750 (l) The division shall develop a program to certify both
1751 volunteer and paid mediators to provide mediation of condominium
1752 disputes. The division shall provide, upon request, a list of
1753 such mediators to any association, unit owner, or other
1754 participant in alternative dispute resolution ~~arbitration~~
1755 proceedings under s. 718.1255 requesting a copy of the list. The
1756 division shall include on the list of volunteer mediators only
1757 the names of persons who have received at least 20 hours of
1758 training in mediation techniques or who have mediated at least
1759 20 disputes. In order to become initially certified by the
1760 division, paid mediators must be certified by the Supreme Court
1761 to mediate court cases in county or circuit courts. However, the
1762 division may adopt, by rule, additional factors for the
1763 certification of paid mediators, which must be related to
1764 experience, education, or background. Any person initially
1765 certified as a paid mediator by the division must, in order to
1766 continue to be certified, comply with the factors or
1767 requirements adopted by rule.

1768 (m) If a complaint is made, the division must conduct its
1769 inquiry with due regard for the interests of the affected

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1770 parties. Within 30 days after receipt of a complaint, the
1771 division shall acknowledge the complaint in writing and notify
1772 the complainant whether the complaint is within the jurisdiction
1773 of the division and whether additional information is needed by
1774 the division from the complainant. The division shall conduct
1775 its investigation and, within 90 days after receipt of the
1776 original complaint or of timely requested additional
1777 information, take action upon the complaint. However, the
1778 failure to complete the investigation within 90 days does not
1779 prevent the division from continuing the investigation,
1780 accepting or considering evidence obtained or received after 90
1781 days, or taking administrative action if reasonable cause exists
1782 to believe that a violation of this chapter or a rule has
1783 occurred. If an investigation is not completed within the time
1784 limits established in this paragraph, the division shall, on a
1785 monthly basis, notify the complainant in writing of the status
1786 of the investigation. When reporting its action to the
1787 complainant, the division shall inform the complainant of any
1788 right to a hearing under ~~pursuant to~~ ss. 120.569 and 120.57.

1789 (n) Condominium association directors, officers, and
1790 employees; condominium developers; bulk assignees, bulk buyers,
1791 and community association managers; and community association
1792 management firms have an ongoing duty to reasonably cooperate
1793 with the division in any investigation under ~~pursuant to~~ this
1794 section. The division shall refer to local law enforcement
1795 authorities any person whom the division believes has altered,
1796 destroyed, concealed, or removed any record, document, or thing
1797 required to be kept or maintained by this chapter with the
1798 purpose to impair its verity or availability in the department's

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1799 investigation.

1800 (o) The division may:

1801 1. Contract with agencies in this state or other
1802 jurisdictions to perform investigative functions; or

1803 2. Accept grants-in-aid from any source.

1804 (p) The division shall cooperate with similar agencies in
1805 other jurisdictions to establish uniform filing procedures and
1806 forms, public offering statements, advertising standards, and
1807 rules and common administrative practices.

1808 (q) The division shall consider notice to a developer, bulk
1809 assignee, or bulk buyer to be complete when it is delivered to
1810 the address of the developer, bulk assignee, or bulk buyer
1811 currently on file with the division.

1812 (r) In addition to its enforcement authority, the division
1813 may issue a notice to show cause, which must provide for a
1814 hearing, upon written request, in accordance with chapter 120.

1815 (s) The division shall submit to the Governor, the
1816 President of the Senate, the Speaker of the House of
1817 Representatives, and the chairs of the legislative
1818 appropriations committees an annual report that includes, but
1819 need not be limited to, the number of training programs provided
1820 for condominium association board members and unit owners, the
1821 number of complaints received by type, the number and percent of
1822 complaints acknowledged in writing within 30 days and the number
1823 and percent of investigations acted upon within 90 days in
1824 accordance with paragraph (m), and the number of investigations
1825 exceeding the 90-day requirement. The annual report must also
1826 include an evaluation of the division's core business processes
1827 and make recommendations for improvements, including statutory

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1828 changes. The report shall be submitted by September 30 following
1829 the end of the fiscal year.

1830 (2) (a) Each condominium association which operates more
1831 than two units shall pay to the division an annual fee in the
1832 amount of \$4 for each residential unit in condominiums operated
1833 by the association. If the fee is not paid by March 1, the
1834 association shall be assessed a penalty of 10 percent of the
1835 amount due, and the association will not have standing to
1836 maintain or defend any action in the courts of this state until
1837 the amount due, plus any penalty, is paid.

1838 (b) All fees shall be deposited in the Division of Florida
1839 Condominiums, Timeshares, and Mobile Homes Trust Fund as
1840 provided by law.

1841 Section 14. Section 718.5014, Florida Statutes, is amended
1842 to read:

1843 718.5014 Ombudsman location.—The ombudsman shall maintain
1844 his or her principal office in a Leon County ~~on the premises of~~
1845 ~~the division or, if suitable space cannot be provided there, at~~
1846 ~~another~~ place convenient to the offices of the division which
1847 will enable the ombudsman to expeditiously carry out the duties
1848 and functions of his or her office. The ombudsman may establish
1849 branch offices elsewhere in the state upon the concurrence of
1850 the Governor.

1851 Section 15. Subsection (25) of section 719.103, Florida
1852 Statutes, is amended to read:

1853 719.103 Definitions.—As used in this chapter:

1854 (25) "Unit" means a part of the cooperative property which
1855 is subject to exclusive use and possession. A unit may be
1856 improvements, land, or land and improvements together, as

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1857 specified in the cooperative documents. An interest in a unit is
1858 an interest in real property.

1859 Section 16. Paragraph (c) of subsection (2) of section
1860 719.104, Florida Statutes, is amended to read:

1861 719.104 Cooperatives; access to units; records; financial
1862 reports; assessments; purchase of leases.—

1863 (2) OFFICIAL RECORDS.—

1864 (c)The official records of the association are open to
1865 inspection by any association member or the authorized
1866 representative of such member at all reasonable times. The right
1867 to inspect the records includes the right to make or obtain
1868 copies, at the reasonable expense, if any, of the association
1869 member. The association may adopt reasonable rules regarding the
1870 frequency, time, location, notice, and manner of record
1871 inspections and copying, but may not require a member to
1872 demonstrate any purpose or state any reason for the inspection.

1873 The failure of an association to provide the records within 10
1874 working days after receipt of a written request creates a
1875 rebuttable presumption that the association willfully failed to
1876 comply with this paragraph. A member ~~unit owner~~ who is denied
1877 access to official records is entitled to the actual damages or
1878 minimum damages for the association's willful failure to comply.
1879 The minimum damages are \$50 per calendar day for up to 10 days,
1880 beginning on the 11th working day after receipt of the written
1881 request. The failure to permit inspection entitles any person
1882 prevailing in an enforcement action to recover reasonable
1883 attorney fees from the person in control of the records who,
1884 directly or indirectly, knowingly denied access to the records.
1885 Any person who knowingly or intentionally defaces or destroys

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1886 accounting records that are required by this chapter to be
1887 maintained during the period for which such records are required
1888 to be maintained, or who knowingly or intentionally fails to
1889 create or maintain accounting records that are required to be
1890 created or maintained, with the intent of causing harm to the
1891 association or one or more of its members, is personally subject
1892 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1893 association shall maintain an adequate number of copies of the
1894 declaration, articles of incorporation, bylaws, and rules, and
1895 all amendments to each of the foregoing, as well as the question
1896 and answer sheet as described in s. 719.504 and year-end
1897 financial information required by the department, on the
1898 cooperative property to ensure their availability to members
1899 ~~unit owners~~ and prospective purchasers, and may charge its
1900 actual costs for preparing and furnishing these documents to
1901 those requesting the same. An association shall allow a member
1902 or his or her authorized representative to use a portable
1903 device, including a smartphone, tablet, portable scanner, or any
1904 other technology capable of scanning or taking photographs, to
1905 make an electronic copy of the official records in lieu of the
1906 association providing the member or his or her authorized
1907 representative with a copy of such records. The association may
1908 not charge a member or his or her authorized representative for
1909 the use of a portable device. Notwithstanding this paragraph,
1910 the following records shall not be accessible to members ~~unit~~
1911 ~~owners~~:

1912 1. Any record protected by the lawyer-client privilege as
1913 described in s. 90.502 and any record protected by the work-
1914 product privilege, including any record prepared by an

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1915 association attorney or prepared at the attorney's express
1916 direction which reflects a mental impression, conclusion,
1917 litigation strategy, or legal theory of the attorney or the
1918 association, and which was prepared exclusively for civil or
1919 criminal litigation or for adversarial administrative
1920 proceedings, or which was prepared in anticipation of such
1921 litigation or proceedings until the conclusion of the litigation
1922 or proceedings.

1923 2. Information obtained by an association in connection
1924 with the approval of the lease, sale, or other transfer of a
1925 unit.

1926 3. Personnel records of association or management company
1927 employees, including, but not limited to, disciplinary, payroll,
1928 health, and insurance records. For purposes of this
1929 subparagraph, the term "personnel records" does not include
1930 written employment agreements with an association employee or
1931 management company, or budgetary or financial records that
1932 indicate the compensation paid to an association employee.

1933 4. Medical records of unit owners.

1934 5. Social security numbers, driver license numbers, credit
1935 card numbers, e-mail addresses, telephone numbers, facsimile
1936 numbers, emergency contact information, addresses of a unit
1937 owner other than as provided to fulfill the association's notice
1938 requirements, and other personal identifying information of any
1939 person, excluding the person's name, unit designation, mailing
1940 address, property address, and any address, e-mail address, or
1941 facsimile number provided to the association to fulfill the
1942 association's notice requirements. Notwithstanding the
1943 restrictions in this subparagraph, an association may print and

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1944 distribute to unit ~~parcel~~ owners a directory containing the
1945 name, unit ~~parcel~~ address, and all telephone numbers of each
1946 unit ~~parcel~~ owner. However, an owner may exclude his or her
1947 telephone numbers from the directory by so requesting in writing
1948 to the association. An owner may consent in writing to the
1949 disclosure of other contact information described in this
1950 subparagraph. The association is not liable for the inadvertent
1951 disclosure of information that is protected under this
1952 subparagraph if the information is included in an official
1953 record of the association and is voluntarily provided by an
1954 owner and not requested by the association.

1955 6. Electronic security measures that are used by the
1956 association to safeguard data, including passwords.

1957 7. The software and operating system used by the
1958 association which allow the manipulation of data, even if the
1959 owner owns a copy of the same software used by the association.
1960 The data is part of the official records of the association.

1961 Section 17. Paragraphs (b), (f), and (l) of subsection (1)
1962 of section 719.106, Florida Statutes, are amended, and
1963 subsection (3) is added to that section, to read:

1964 719.106 Bylaws; cooperative ownership.—

1965 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1966 documents shall provide for the following, and if they do not,
1967 they shall be deemed to include the following:

1968 (b) *Quorum; voting requirements; proxies.*—

1969 1. Unless otherwise provided in the bylaws, the percentage
1970 of voting interests required to constitute a quorum at a meeting
1971 of the members shall be a majority of voting interests, and
1972 decisions shall be made by owners of a majority of the voting

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1973 interests. Unless otherwise provided in this chapter, or in the
1974 articles of incorporation, bylaws, or other cooperative
1975 documents, and except as provided in subparagraph (d)1.,
1976 decisions shall be made by owners of a majority of the voting
1977 interests represented at a meeting at which a quorum is present.

1978 2. Except as specifically otherwise provided herein, after
1979 January 1, 1992, unit owners may not vote by general proxy, but
1980 may vote by limited proxies substantially conforming to a
1981 limited proxy form adopted by the division. Limited proxies and
1982 general proxies may be used to establish a quorum. Limited
1983 proxies shall be used for votes taken to waive or reduce
1984 reserves in accordance with subparagraph (j)2., for votes taken
1985 to waive the financial reporting requirements of s.
1986 719.104(4)(b), for votes taken to amend the articles of
1987 incorporation or bylaws pursuant to this section, and for any
1988 other matter for which this chapter requires or permits a vote
1989 of the unit owners. Except as provided in paragraph (d), after
1990 January 1, 1992, no proxy, limited or general, shall be used in
1991 the election of board members. General proxies may be used for
1992 other matters for which limited proxies are not required, and
1993 may also be used in voting for nonsubstantive changes to items
1994 for which a limited proxy is required and given. Notwithstanding
1995 the provisions of this section, unit owners may vote in person
1996 at unit owner meetings. Nothing contained herein shall limit the
1997 use of general proxies or require the use of limited proxies or
1998 require the use of limited proxies for any agenda item or
1999 election at any meeting of a timeshare cooperative.

2000 3. Any proxy given shall be effective only for the specific
2001 meeting for which originally given and any lawfully adjourned

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2002 meetings thereof. In no event shall any proxy be valid for a
2003 period longer than 90 days after the date of the first meeting
2004 for which it was given. Every proxy shall be revocable at any
2005 time at the pleasure of the unit owner executing it.

2006 4. A member of the board of administration or a committee
2007 may submit in writing his or her agreement or disagreement with
2008 any action taken at a meeting that the member did not attend.
2009 This agreement or disagreement may not be used as a vote for or
2010 against the action taken and may not be used for the purposes of
2011 creating a quorum.

2012 5. A board member or committee member participating in a
2013 meeting via telephone, real-time videoconferencing, or similar
2014 real-time electronic or video communication counts toward a
2015 quorum, and such member may vote as if physically present ~~When~~
2016 ~~some or all of the board or committee members meet by telephone~~
2017 ~~conference, those board or committee members attending by~~
2018 ~~telephone conference may be counted toward obtaining a quorum~~
2019 ~~and may vote by telephone. A telephone speaker must shall be~~
2020 used ~~utilized~~ so that the conversation of such ~~those board or~~
2021 ~~committee members attending by telephone~~ may be heard by the
2022 board or committee members attending in person, as well as by
2023 any unit owners present at a meeting.

2024 (f) *Recall of board members.*—Subject to s. 719.301, any
2025 member of the board of administration may be recalled and
2026 removed from office with or without cause by the vote or
2027 agreement in writing by a majority of all the voting interests.
2028 A special meeting of the voting interests to recall any member
2029 of the board of administration may be called by 10 percent of
2030 the unit owners giving notice of the meeting as required for a

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2031 meeting of unit owners, and the notice shall state the purpose
2032 of the meeting. Electronic transmission may not be used as a
2033 method of giving notice of a meeting called in whole or in part
2034 for this purpose.

2035 1. If the recall is approved by a majority of all voting
2036 interests by a vote at a meeting, the recall shall be effective
2037 as provided in this paragraph. The board shall duly notice and
2038 hold a board meeting within 5 full business days after the
2039 adjournment of the unit owner meeting to recall one or more
2040 board members. At the meeting, the board shall either certify
2041 the recall, in which case such member or members shall be
2042 recalled effective immediately and shall turn over to the board
2043 within 5 full business days any and all records and property of
2044 the association in their possession, or shall proceed as set
2045 forth in subparagraph 3.

2046 2. If the proposed recall is by an agreement in writing by
2047 a majority of all voting interests, the agreement in writing or
2048 a copy thereof shall be served on the association by certified
2049 mail or by personal service in the manner authorized by chapter
2050 48 and the Florida Rules of Civil Procedure. The board of
2051 administration shall duly notice and hold a meeting of the board
2052 within 5 full business days after receipt of the agreement in
2053 writing. At the meeting, the board shall either certify the
2054 written agreement to recall members of the board, in which case
2055 such members shall be recalled effective immediately and shall
2056 turn over to the board, within 5 full business days, any and all
2057 records and property of the association in their possession, or
2058 proceed as described in subparagraph 3.

2059 3. If the board determines not to certify the written

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2060 agreement to recall members of the board, or does not certify
2061 the recall by a vote at a meeting, the board shall, within 5
2062 full business days after the board meeting, file with the
2063 division a petition for binding arbitration under ~~pursuant to~~
2064 ~~the procedures of~~ s. 719.1255 or file an action with a court of
2065 competent jurisdiction. For purposes of this paragraph, the unit
2066 owners who voted at the meeting or who executed the agreement in
2067 writing shall constitute one party under the petition for
2068 arbitration or in a court action. If the arbitrator or court
2069 certifies the recall as to any member of the board, the recall
2070 ~~is shall be~~ effective upon the mailing of the final order of
2071 arbitration to the association or the final order of the court.
2072 If the association fails to comply with the order of the court
2073 or the arbitrator, the division may take action under ~~pursuant~~
2074 ~~to~~ s. 719.501. Any member so recalled shall deliver to the board
2075 any and all records and property of the association in the
2076 member's possession within 5 full business days after the
2077 effective date of the recall.

2078 4. If the board fails to duly notice and hold a board
2079 meeting within 5 full business days after service of an
2080 agreement in writing or within 5 full business days after the
2081 adjournment of the unit owner recall meeting, the recall is
2082 ~~shall be~~ deemed effective and the board members so recalled
2083 shall immediately turn over to the board any and all records and
2084 property of the association.

2085 5. If the board fails to duly notice and hold the required
2086 meeting or fails to file the required petition or action, the
2087 unit owner representative may file a petition under ~~pursuant to~~
2088 s. 719.1255 or file an action in a court of competent

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2089 jurisdiction challenging the board's failure to act. The
2090 petition or action must be filed within 60 days after the
2091 expiration of the applicable 5-full-business-day period. The
2092 review of a petition or action under this subparagraph is
2093 limited to the sufficiency of service on the board and the
2094 facial validity of the written agreement or ballots filed.

2095 6. If a vacancy occurs on the board as a result of a recall
2096 and less than a majority of the board members are removed, the
2097 vacancy may be filled by the affirmative vote of a majority of
2098 the remaining directors, notwithstanding any provision to the
2099 contrary contained in this chapter. If vacancies occur on the
2100 board as a result of a recall and a majority or more of the
2101 board members are removed, the vacancies shall be filled in
2102 accordance with procedural rules to be adopted by the division,
2103 which rules need not be consistent with this chapter. The rules
2104 must provide procedures governing the conduct of the recall
2105 election as well as the operation of the association during the
2106 period after a recall but before the recall election.

2107 7. A board member who has been recalled may file a petition
2108 under ~~pursuant to~~ s. 719.1255 or file an action in a court of
2109 competent jurisdiction challenging the validity of the recall.
2110 The petition or action must be filed within 60 days after the
2111 recall is deemed certified. The association and the unit owner
2112 representative shall be named as the respondents.

2113 8. The division or court may not accept for filing a recall
2114 petition or action, whether filed under ~~pursuant to~~ subparagraph
2115 1., subparagraph 2., subparagraph 5., or subparagraph 7. and
2116 regardless of whether the recall was certified, when there are
2117 60 or fewer days until the scheduled reelection of the board

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2118 member sought to be recalled or when 60 or fewer days have not
2119 elapsed since the election of the board member sought to be
2120 recalled.

2121 (1) Alternative dispute resolution ~~Arbitration~~.—There shall
2122 be a provision for alternative dispute resolution ~~mandatory~~
2123 ~~nonbinding arbitration~~ of internal disputes arising from the
2124 operation of the cooperative in accordance with s. 719.1255.

2125 (3) GENERALLY.—The association may extinguish a
2126 discriminatory restriction as provided under s. 712.065.

2127 Section 18. Section 719.128, Florida Statutes, is amended
2128 to read:

2129 719.128 Association emergency powers.—

2130 (1) To the extent allowed by law, unless specifically
2131 prohibited by the cooperative documents, and consistent with s.
2132 617.0830, the board of administration, in response to damage or
2133 injury caused by or anticipated in connection with an emergency,
2134 as defined in s. 252.34(4), event for which a state of emergency
2135 is declared pursuant to s. 252.36 in the area encompassed by the
2136 cooperative, may exercise the following powers:

2137 (a) Conduct board meetings, committee meetings, elections,
2138 or membership meetings, in whole or in part, by telephone, real-
2139 time videoconferencing, or similar real-time electronic or video
2140 communication after notice of the meetings and board decisions
2141 is provided in as practicable a manner as possible, including
2142 via publication, radio, United States mail, the Internet,
2143 electronic transmission, public service announcements,
2144 conspicuous posting on the cooperative property, or any other
2145 means the board deems appropriate under the circumstances.
2146 Notice of decisions may also be communicated as provided in this

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2147 paragraph.

2148 (b) Cancel and reschedule an association meeting.

2149 (c) Designate assistant officers who are not directors. If
2150 the executive officer is incapacitated or unavailable, the
2151 assistant officer has the same authority during the state of
2152 emergency as the executive officer he or she assists.

2153 (d) Relocate the association's principal office or
2154 designate an alternative principal office.

2155 (e) Enter into agreements with counties and municipalities
2156 to assist counties and municipalities with debris removal.

2157 (f) Implement a disaster or an emergency plan before,
2158 during, or ~~immediately~~ following the event for which a state of
2159 emergency is declared, which may include turning on or shutting
2160 off elevators; electricity; water, sewer, or security systems;
2161 or air conditioners for association buildings.

2162 (g) Based upon the advice of emergency management officials
2163 or public health officials, or upon the advice of licensed
2164 professionals retained by or otherwise available to the board of
2165 administration, determine any portion of the cooperative
2166 property unavailable for entry or occupancy by unit owners or
2167 their family members, tenants, guests, agents, or invitees to
2168 protect their health, safety, or welfare.

2169 (h) Based upon the advice of emergency management officials
2170 or public health officials, or upon the advice of licensed
2171 professionals retained by or otherwise available to the board of
2172 administration, determine whether the cooperative property or
2173 any portion thereof can be safely inhabited or occupied.
2174 However, such determination is not conclusive as to any
2175 determination of habitability pursuant to the cooperative

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2176 documents ~~declaration~~.

2177 (i) Require the evacuation of the cooperative property in
2178 the event of a mandatory evacuation order in the area where the
2179 cooperative is located or prohibit or restrict access to the
2180 cooperative property in the event of a public health threat. If
2181 a unit owner or other occupant of a cooperative fails to
2182 evacuate the cooperative property for which the board has
2183 required evacuation, the association is immune from liability
2184 for injury to persons or property arising from such failure.

2185 (j) Mitigate further damage, injury, or contagion,
2186 including taking action to contract for the removal of debris
2187 and to prevent or mitigate the spread of fungus, including mold
2188 or mildew, by removing and disposing of wet drywall, insulation,
2189 carpet, cabinetry, or other fixtures on or within the
2190 cooperative property, regardless of whether the unit owner is
2191 obligated by the cooperative documents ~~declaration~~ or law to
2192 insure or replace those fixtures and to remove personal property
2193 from a unit or to sanitize the cooperative property.

2194 (k) Contract, on behalf of a unit owner, for items or
2195 services for which the owner is otherwise individually
2196 responsible, but which are necessary to prevent further injury,
2197 contagion, or damage to the cooperative property. In such event,
2198 the unit owner on whose behalf the board has contracted is
2199 responsible for reimbursing the association for the actual costs
2200 of the items or services, and the association may use its lien
2201 authority provided by s. 719.108 to enforce collection of the
2202 charges. Such items or services may include the drying of the
2203 unit, the boarding of broken windows or doors, ~~and~~ the
2204 replacement of a damaged air conditioner or air handler to

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2205 provide climate control in the unit or other portions of the
2206 property, and the sanitizing of the cooperative property.

2207 (1) Notwithstanding a provision to the contrary, and
2208 regardless of whether such authority does not specifically
2209 appear in the cooperative documents, levy special assessments
2210 without a vote of the owners.

2211 (m) Without unit owners' approval, borrow money and pledge
2212 association assets as collateral to fund emergency repairs and
2213 carry out the duties of the association if operating funds are
2214 insufficient. This paragraph does not limit the general
2215 authority of the association to borrow money, subject to such
2216 restrictions contained in the cooperative documents.

2217 (2) The authority granted under subsection (1) is limited
2218 to that time reasonably necessary to protect the health, safety,
2219 and welfare of the association and the unit owners and their
2220 family members, tenants, guests, agents, or invitees, and to
2221 mitigate further damage, injury, or contagion and make emergency
2222 repairs.

2223 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
2224 of emergency declared by executive order or proclamation of the
2225 Governor pursuant to s. 252.36, an association may not prohibit
2226 unit owners, tenants, guests, agents, or invitees of a unit
2227 owner from accessing the common elements and limited common
2228 elements appurtenant thereto for the purposes of ingress to and
2229 egress from the unit when access is necessary in connection
2230 with:

2231 (a) The sale, lease, or other transfer of title of a unit;

2232 or

2233 (b) The habitability of the unit or for the health and

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2234 safety of such person unless a governmental order or
2235 determination, or a public health directive from the Centers for
2236 Disease Control and Prevention, has been issued prohibiting such
2237 access to the unit. Any such access is subject to reasonable
2238 restrictions adopted by the association.

2239 Section 19. Subsection (8) of section 720.301, Florida
2240 Statutes, is amended to read:

2241 720.301 Definitions.—As used in this chapter, the term:

2242 (8) "Governing documents" means:

2243 (a) The recorded declaration of covenants for a community
2244 and all duly adopted and recorded amendments, supplements, and
2245 recorded exhibits thereto; and

2246 (b) The articles of incorporation and bylaws of the
2247 homeowners' association and any duly adopted amendments thereto;
2248 ~~and~~

2249 ~~(c) Rules and regulations adopted under the authority of~~
2250 ~~the recorded declaration, articles of incorporation, or bylaws~~
2251 ~~and duly adopted amendments thereto.~~

2252 Section 20. Present paragraph (1) of subsection (4) of
2253 section 720.303, Florida Statutes, is redesignated as paragraph
2254 (m) and amended, a new paragraph (1) is added to that
2255 subsection, and paragraph (c) of subsection (2), paragraph (c)
2256 of subsection (5), paragraphs (c) and (d) of subsection (6), and
2257 paragraphs (b), (d), (g), (k), and (l) of subsection (10) are
2258 amended, to read:

2259 720.303 Association powers and duties; meetings of board;
2260 official records; budgets; financial reporting; association
2261 funds; recalls.—

2262 (2) BOARD MEETINGS.—

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2263 (c) The bylaws shall provide the following for giving
2264 notice to parcel owners and members of all board meetings and,
2265 if they do not do so, shall be deemed to include the following:

2266 1. Notices of all board meetings must be posted in a
2267 conspicuous place in the community at least 48 hours in advance
2268 of a meeting, except in an emergency. In the alternative, if
2269 notice is not posted in a conspicuous place in the community,
2270 notice of each board meeting must be mailed or delivered to each
2271 member at least 7 days before the meeting, except in an
2272 emergency. Notwithstanding this general notice requirement, for
2273 communities with more than 100 members, the association bylaws
2274 may provide for a reasonable alternative to posting or mailing
2275 of notice for each board meeting, including publication of
2276 notice, provision of a schedule of board meetings, or the
2277 conspicuous posting and repeated broadcasting of the notice on a
2278 closed-circuit cable television system serving the homeowners'
2279 association. However, if broadcast notice is used in lieu of a
2280 notice posted physically in the community, the notice must be
2281 broadcast at least four times every broadcast hour of each day
2282 that a posted notice is otherwise required. When broadcast
2283 notice is provided, the notice and agenda must be broadcast in a
2284 manner and for a sufficient continuous length of time so as to
2285 allow an average reader to observe the notice and read and
2286 comprehend the entire content of the notice and the agenda. In
2287 addition to any of the authorized means of providing notice of a
2288 meeting of the board, the association may, by rule, adopt a
2289 procedure for conspicuously posting the meeting notice and the
2290 agenda on the association's website or an application that can
2291 be downloaded on a mobile device for at least the minimum period

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2292 of time for which a notice of a meeting is also required to be
2293 physically posted on the association property. Any rule adopted
2294 must, in addition to other matters, include a requirement that
2295 the association send an electronic notice to members whose e-
2296 mail addresses are included in the association's official
2297 records in the same manner as is required for a notice of a
2298 meeting of the members. Such notice must include a hyperlink to
2299 the website or such mobile application on which the meeting
2300 notice is posted. The association may provide notice by
2301 electronic transmission in a manner authorized by law for
2302 meetings of the board of directors, committee meetings requiring
2303 notice under this section, and annual and special meetings of
2304 the members to any member who has provided a facsimile number or
2305 e-mail address to the association to be used for such purposes;
2306 however, a member must consent in writing to receiving notice by
2307 electronic transmission.

2308 2. An assessment may not be levied at a board meeting
2309 unless the notice of the meeting includes a statement that
2310 assessments will be considered and the nature of the
2311 assessments. Written notice of any meeting at which special
2312 assessments will be considered or at which amendments to rules
2313 regarding parcel use will be considered must be mailed,
2314 delivered, or electronically transmitted to the members and
2315 parcel owners and posted conspicuously on the property or
2316 broadcast on closed-circuit cable television not less than 14
2317 days before the meeting.

2318 3. Directors may not vote by proxy or by secret ballot at
2319 board meetings, except that secret ballots may be used in the
2320 election of officers. This subsection also applies to the

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2321 meetings of any committee or other similar body, when a final
 2322 decision will be made regarding the expenditure of association
 2323 funds, and to any body vested with the power to approve or
 2324 disapprove architectural decisions with respect to a specific
 2325 parcel of residential property owned by a member of the
 2326 community.

2327 (4) OFFICIAL RECORDS.—The association shall maintain each
 2328 of the following items, when applicable, which constitute the
 2329 official records of the association:

2330 (1) Ballots, sign-in sheets, voting proxies, and all other
 2331 papers and electronic records relating to voting by parcel
 2332 owners, which must be maintained for at least 1 year after the
 2333 date of the election, vote, or meeting.

2334 (m)~~(l)~~ All other written records of the association not
 2335 specifically included in this subsection ~~the foregoing~~ which are
 2336 related to the operation of the association.

2337 (5) INSPECTION AND COPYING OF RECORDS.—The official records
 2338 shall be maintained within the state for at least 7 years and
 2339 shall be made available to a parcel owner for inspection or
 2340 photocopying within 45 miles of the community or within the
 2341 county in which the association is located within 10 business
 2342 days after receipt by the board or its designee of a written
 2343 request. This subsection may be complied with by having a copy
 2344 of the official records available for inspection or copying in
 2345 the community or, at the option of the association, by making
 2346 the records available to a parcel owner electronically via the
 2347 Internet or by allowing the records to be viewed in electronic
 2348 format on a computer screen and printed upon request. If the
 2349 association has a photocopy machine available where the records

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2350 are maintained, it must provide parcel owners with copies on
2351 request during the inspection if the entire request is limited
2352 to no more than 25 pages. An association shall allow a member or
2353 his or her authorized representative to use a portable device,
2354 including a smartphone, tablet, portable scanner, or any other
2355 technology capable of scanning or taking photographs, to make an
2356 electronic copy of the official records in lieu of the
2357 association's providing the member or his or her authorized
2358 representative with a copy of such records. The association may
2359 not charge a fee to a member or his or her authorized
2360 representative for the use of a portable device.

2361 (c) The association may adopt reasonable written rules
2362 governing the frequency, time, location, notice, records to be
2363 inspected, and manner of inspections, but may not require a
2364 parcel owner to demonstrate any proper purpose for the
2365 inspection, state any reason for the inspection, or limit a
2366 parcel owner's right to inspect records to less than one 8-hour
2367 business day per month. The association may impose fees to cover
2368 the costs of providing copies of the official records, including
2369 the costs of copying and the costs required for personnel to
2370 retrieve and copy the records if the time spent retrieving and
2371 copying the records exceeds one-half hour and if the personnel
2372 costs do not exceed \$20 per hour. Personnel costs may not be
2373 charged for records requests that result in the copying of 25 or
2374 fewer pages. The association may charge up to 25 cents per page
2375 for copies made on the association's photocopier. If the
2376 association does not have a photocopy machine available where
2377 the records are kept, or if the records requested to be copied
2378 exceed 25 pages in length, the association may have copies made

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2379 by an outside duplicating service and may charge the actual cost
2380 of copying, as supported by the vendor invoice. The association
2381 shall maintain an adequate number of copies of the recorded
2382 governing documents, to ensure their availability to members and
2383 prospective members. Notwithstanding this paragraph, the
2384 following records are not accessible to members or parcel
2385 owners:

2386 1. Any record protected by the lawyer-client privilege as
2387 described in s. 90.502 and any record protected by the work-
2388 product privilege, including, but not limited to, a record
2389 prepared by an association attorney or prepared at the
2390 attorney's express direction which reflects a mental impression,
2391 conclusion, litigation strategy, or legal theory of the attorney
2392 or the association and which was prepared exclusively for civil
2393 or criminal litigation or for adversarial administrative
2394 proceedings or which was prepared in anticipation of such
2395 litigation or proceedings until the conclusion of the litigation
2396 or proceedings.

2397 2. Information obtained by an association in connection
2398 with the approval of the lease, sale, or other transfer of a
2399 parcel.

2400 3. Information an association obtains in a gated community
2401 in connection with guests' visits to parcel owners or community
2402 residents.

2403 4. Personnel records of association or management company
2404 employees, including, but not limited to, disciplinary, payroll,
2405 health, and insurance records. For purposes of this
2406 subparagraph, the term "personnel records" does not include
2407 written employment agreements with an association or management

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2408 company employee or budgetary or financial records that indicate
2409 the compensation paid to an association or management company
2410 employee.

2411 ~~5.4.~~ Medical records of parcel owners or community
2412 residents.

2413 ~~6.5.~~ Social security numbers, driver license numbers,
2414 credit card numbers, electronic mailing addresses, telephone
2415 numbers, facsimile numbers, emergency contact information, any
2416 addresses for a parcel owner other than as provided for
2417 association notice requirements, and other personal identifying
2418 information of any person, excluding the person's name, parcel
2419 designation, mailing address, and property address.
2420 Notwithstanding the restrictions in this subparagraph, an
2421 association may print and distribute to parcel owners a
2422 directory containing the name, parcel address, and all telephone
2423 numbers of each parcel owner. However, an owner may exclude his
2424 or her telephone numbers from the directory by so requesting in
2425 writing to the association. An owner may consent in writing to
2426 the disclosure of other contact information described in this
2427 subparagraph. The association is not liable for the disclosure
2428 of information that is protected under this subparagraph if the
2429 information is included in an official record of the association
2430 and is voluntarily provided by an owner and not requested by the
2431 association.

2432 ~~7.6.~~ Any electronic security measure that is used by the
2433 association to safeguard data, including passwords.

2434 ~~8.7.~~ The software and operating system used by the
2435 association which allows the manipulation of data, even if the
2436 owner owns a copy of the same software used by the association.

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2437 The data is part of the official records of the association.

2438 (6) BUDGETS.—

2439 (c)1. If the budget of the association does not provide for
2440 reserve accounts under ~~pursuant to~~ paragraph (d), or the
2441 declaration of covenants, articles, or bylaws do not obligate
2442 the developer to create reserves, and the association is
2443 responsible for the repair and maintenance of capital
2444 improvements that may result in a special assessment if reserves
2445 are not provided or not fully funded, each financial report for
2446 the preceding fiscal year required by subsection (7) must
2447 contain the following statement in conspicuous type:

2448
2449 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED
2450 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
2451 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
2452 THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDED
2453 RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION 720.303(6), FLORIDA
2454 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL
2455 VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
2456 MEETING OR BY WRITTEN CONSENT.

2457 2. If the budget of the association does provide for
2458 funding accounts for deferred expenditures, including, but not
2459 limited to, funds for capital expenditures and deferred
2460 maintenance, but such accounts are not created or established
2461 under ~~pursuant to~~ paragraph (d), each financial report for the
2462 preceding fiscal year required under subsection (7) must also
2463 contain the following statement in conspicuous type:

2464 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
2465 DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES

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2466 AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
2467 IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
2468 TO PROVIDE FOR RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION
2469 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
2470 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
2471 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

2472 (d) An association is deemed to have provided for reserve
2473 accounts ~~if reserve accounts have been initially established by~~
2474 ~~the developer or if the membership of the association~~
2475 ~~affirmatively elects to provide for reserves. If reserve~~
2476 ~~accounts are established by the developer, the budget must~~
2477 ~~designate the components for which the reserve accounts may be~~
2478 ~~used. If reserve accounts are not initially provided by the~~
2479 ~~developer, the membership of the association may elect to do so~~
2480 upon the affirmative approval of a majority of the total voting
2481 interests of the association. Such approval may be obtained by
2482 vote of the members at a duly called meeting of the membership
2483 or by the written consent of a majority of the total voting
2484 interests of the association. The approval action of the
2485 membership must state that reserve accounts shall be provided
2486 for in the budget and must designate the components for which
2487 the reserve accounts are to be established. Upon approval by the
2488 membership, the board of directors shall include the required
2489 reserve accounts in the budget in the next fiscal year following
2490 the approval and each year thereafter. Once established as
2491 provided in this subsection, the reserve accounts must be funded
2492 or maintained or have their funding waived in the manner
2493 provided in paragraph (f).

2494 (10) RECALL OF DIRECTORS.—

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2495 (b)1. Board directors may be recalled by an agreement in
2496 writing or by written ballot without a membership meeting. The
2497 agreement in writing or the written ballots, or a copy thereof,
2498 shall be served on the association by certified mail or by
2499 personal service in the manner authorized by chapter 48 and the
2500 Florida Rules of Civil Procedure.

2501 2. The board shall duly notice and hold a meeting of the
2502 board within 5 full business days after receipt of the agreement
2503 in writing or written ballots. At the meeting, the board shall
2504 either certify the written ballots or written agreement to
2505 recall a director or directors of the board, in which case such
2506 director or directors shall be recalled effective immediately
2507 and shall turn over to the board within 5 full business days any
2508 and all records and property of the association in their
2509 possession, or proceed as described in paragraph (d).

2510 3. When it is determined by the department pursuant to
2511 binding arbitration proceedings or the court in an action filed
2512 in a court of competent jurisdiction that an initial recall
2513 effort was defective, written recall agreements or written
2514 ballots used in the first recall effort and not found to be
2515 defective may be reused in one subsequent recall effort.
2516 However, in no event is a written agreement or written ballot
2517 valid for more than 120 days after it has been signed by the
2518 member.

2519 4. Any rescission or revocation of a member's written
2520 recall ballot or agreement must be in writing and, in order to
2521 be effective, must be delivered to the association before the
2522 association is served with the written recall agreements or
2523 ballots.

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2524 5. The agreement in writing or ballot shall list at least
2525 as many possible replacement directors as there are directors
2526 subject to the recall, when at least a majority of the board is
2527 sought to be recalled; the person executing the recall
2528 instrument may vote for as many replacement candidates as there
2529 are directors subject to the recall.

2530 (d) If the board determines not to certify the written
2531 agreement or written ballots to recall a director or directors
2532 of the board or does not certify the recall by a vote at a
2533 meeting, the board shall, within 5 full business days after the
2534 meeting, file an action with a court of competent jurisdiction
2535 or file with the department a petition for binding arbitration
2536 under ~~pursuant to~~ the applicable procedures in ss. 718.112(2)(j)
2537 and 718.1255 and the rules adopted thereunder. For the purposes
2538 of this section, the members who voted at the meeting or who
2539 executed the agreement in writing shall constitute one party
2540 under the petition for arbitration or in a court action. If the
2541 arbitrator or court certifies the recall as to any director or
2542 directors of the board, the recall will be effective upon the
2543 final order of the court or the mailing of the final order of
2544 arbitration to the association. The director or directors so
2545 recalled shall deliver to the board any and all records of the
2546 association in their possession within 5 full business days
2547 after the effective date of the recall.

2548 (g) If the board fails to duly notice and hold the required
2549 meeting or fails to file the required petition or action, the
2550 parcel unit owner representative may file a petition or a court
2551 action under ~~pursuant to~~ s. 718.1255 challenging the board's
2552 failure to act. The petition or action must be filed within 60

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2553 days after the expiration of the applicable 5-full-business-day
2554 period. The review of a petition or action under this paragraph
2555 is limited to the sufficiency of service on the board and the
2556 facial validity of the written agreement or ballots filed.

2557 (k) A board member who has been recalled may file an action
2558 with a court of competent jurisdiction or a petition under
2559 ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and the rules adopted
2560 challenging the validity of the recall. The petition or action
2561 must be filed within 60 days after the recall is deemed
2562 certified. The association and the parcel ~~unit~~ owner
2563 representative shall be named as respondents.

2564 (l) The division or a court of competent jurisdiction may
2565 not accept for filing a recall petition or action, whether filed
2566 under ~~pursuant to~~ paragraph (b), paragraph (c), paragraph (g),
2567 or paragraph (k) and regardless of whether the recall was
2568 certified, when there are 60 or fewer days until the scheduled
2569 reelection of the board member sought to be recalled or when 60
2570 or fewer days have not elapsed since the election of the board
2571 member sought to be recalled.

2572 Section 21. Subsection (2) of section 720.305, Florida
2573 Statutes, is amended to read:

2574 720.305 Obligations of members; remedies at law or in
2575 equity; levy of fines and suspension of use rights.—

2576 (2) An ~~The~~ association may levy reasonable fines. A fine
2577 may not exceed \$100 per violation against any member or any
2578 member's tenant, guest, or invitee for the failure of the owner
2579 of the parcel or its occupant, licensee, or invitee to comply
2580 with any provision of the declaration, the association bylaws,
2581 or reasonable rules of the association unless otherwise provided

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2582 in the governing documents. A fine may be levied by the board
2583 for each day of a continuing violation, with a single notice and
2584 opportunity for hearing, except that the fine may not exceed
2585 \$1,000 in the aggregate unless otherwise provided in the
2586 governing documents. A fine of less than \$1,000 may not become a
2587 lien against a parcel. In any action to recover a fine, the
2588 prevailing party is entitled to reasonable attorney fees and
2589 costs from the nonprevailing party as determined by the court.

2590 (a) An association may suspend, for a reasonable period of
2591 time, the right of a member, or a member's tenant, guest, or
2592 invitee, to use common areas and facilities for the failure of
2593 the owner of the parcel or its occupant, licensee, or invitee to
2594 comply with any provision of the declaration, the association
2595 bylaws, or reasonable rules of the association. This paragraph
2596 does not apply to that portion of common areas used to provide
2597 access or utility services to the parcel. A suspension may not
2598 prohibit an owner or tenant of a parcel from having vehicular
2599 and pedestrian ingress to and egress from the parcel, including,
2600 but not limited to, the right to park.

2601 (b) A fine or suspension levied by the board of
2602 administration may not be imposed unless the board first
2603 provides at least 14 days' notice to the parcel owner and, if
2604 applicable, any occupant, licensee, or invitee of the parcel
2605 owner, sought to be fined or suspended and an opportunity for a
2606 hearing before a committee of at least three members appointed
2607 by the board who are not officers, directors, or employees of
2608 the association, or the spouse, parent, child, brother, or
2609 sister of an officer, director, or employee. If the committee,
2610 by majority vote, does not approve a proposed fine or

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2611 suspension, the proposed fine or suspension may not be imposed.
2612 The role of the committee is limited to determining whether to
2613 confirm or reject the fine or suspension levied by the board. If
2614 the proposed fine or suspension levied by the board is approved
2615 by the committee, the fine payment is due 5 days after notice of
2616 the approved fine is provided to the parcel owner and, if
2617 applicable, to any occupant, licensee, or invitee of the parcel
2618 owner ~~the date of the committee meeting at which the fine is~~
2619 ~~approved~~. The association must provide written notice of such
2620 fine or suspension by mail or hand delivery to the parcel owner
2621 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
2622 of the parcel owner.

2623 Section 22. Paragraph (g) of subsection (1) and paragraph
2624 (c) of subsection (9) of section 720.306, Florida Statutes, are
2625 amended, and paragraph (h) is added to subsection (1) of that
2626 section, to read:

2627 720.306 Meetings of members; voting and election
2628 procedures; amendments.—

2629 (1) QUORUM; AMENDMENTS.—

2630 (g) A notice required under this section must be mailed or
2631 delivered to the address identified as the parcel owner's
2632 mailing address in the official records of the association as
2633 required under s. 720.303(4) ~~on the property appraiser's website~~
2634 ~~for the county in which the parcel is located~~, or electronically
2635 transmitted in a manner authorized by the association if the
2636 parcel owner has consented, in writing, to receive notice by
2637 electronic transmission.

2638 (h)1. Except as provided herein, an amendment to a
2639 governing document, rule, or regulation enacted after July 1,

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2640 2021, which prohibits a parcel owner from renting his or her
2641 parcel, alters the authorized duration of a rental term, or
2642 specifies or limits the number of times that a parcel owner may
2643 rent his or her parcel during a specified period, applies only
2644 to a parcel owner who consents, individually or through a
2645 representative, to the amendment, and to parcel owners who
2646 acquire title to a parcel after the effective date of the
2647 amendment.

2648 2. Notwithstanding subparagraph 1., an association may
2649 amend its governing documents to prohibit or regulate rental
2650 durations that are for terms of less than 6 months and to
2651 prohibit a parcel owner from renting his or parcel more than
2652 three times in a calendar year. Such amendments apply to all
2653 parcel owners.

2654 3. This paragraph does not affect the amendment
2655 restrictions for associations of 15 or fewer parcel owners as
2656 provided in s. 720.303(1).

2657 4. For purposes of this paragraph, a change of ownership
2658 does not occur when a parcel owner conveys the parcel to an
2659 affiliated entity, when beneficial ownership of the parcel does
2660 not change, or when an heir becomes a parcel owner. For purposes
2661 of this paragraph, the term "affiliated entity" means an entity
2662 that controls, is controlled by, or is under common control with
2663 the parcel owner or that becomes a parent or successor entity by
2664 reason of transfer, merger, consolidation, public offering,
2665 reorganization, dissolution or sale of stock, or transfer of
2666 membership partnership interests. For a conveyance to be
2667 recognized as one made to an affiliated entity, the entity must
2668 furnish the association a document certifying that this

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2669 paragraph applies, as well as providing any organizational
2670 documents for the parcel owner and the affiliated entity that
2671 support the representations in the certificate, as requested by
2672 the association.

2673 (9) ELECTIONS AND BOARD VACANCIES.—

2674 (c) Any election dispute between a member and an
2675 association must be submitted to ~~mandatory~~ binding arbitration
2676 with the division or filed with a court of competent
2677 jurisdiction. Such proceedings that are submitted to binding
2678 arbitration with the division must be conducted in the manner
2679 provided by s. 718.1255 and the procedural rules adopted by the
2680 division. Unless otherwise provided in the bylaws, any vacancy
2681 occurring on the board before the expiration of a term may be
2682 filled by an affirmative vote of the majority of the remaining
2683 directors, even if the remaining directors constitute less than
2684 a quorum, or by the sole remaining director. In the alternative,
2685 a board may hold an election to fill the vacancy, in which case
2686 the election procedures must conform to the requirements of the
2687 governing documents. Unless otherwise provided in the bylaws, a
2688 board member appointed or elected under this section is
2689 appointed for the unexpired term of the seat being filled.
2690 Filling vacancies created by recall is governed by s.
2691 720.303(10) and rules adopted by the division.

2692 Section 23. Subsections (1) and (2) of section 720.307,
2693 Florida Statutes, are amended to read:

2694 720.307 Transition of association control in a community.—
2695 With respect to homeowners' associations:

2696 (1) Members other than the developer are entitled to elect
2697 at least a majority of the members of the board of directors of

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2698 the homeowners' association when the earlier of the following
2699 events occurs:

2700 (a) Three months after 90 percent of the parcels in all
2701 phases of the community that will ultimately be operated by the
2702 homeowners' association have been conveyed to members other than
2703 the developer;

2704 (b) Such other percentage of the parcels has been conveyed
2705 to members, or such other date or event has occurred, as is set
2706 forth in the governing documents in order to comply with the
2707 requirements of any governmentally chartered entity with regard
2708 to the mortgage financing of parcels;

2709 (c) Upon the developer abandoning or deserting its
2710 responsibility to maintain and complete the amenities or
2711 infrastructure as disclosed in the governing documents. There is
2712 a rebuttable presumption that the developer has abandoned and
2713 deserted the property if the developer has unpaid assessments or
2714 guaranteed amounts under s. 720.308 for a period of more than 2
2715 years;

2716 (d) Upon the developer filing a petition seeking protection
2717 under chapter 7 of the federal Bankruptcy Code;

2718 (e) Upon the developer losing title to the property through
2719 a foreclosure action or the transfer of a deed in lieu of
2720 foreclosure, unless the successor owner has accepted an
2721 assignment of developer rights and responsibilities first
2722 arising after the date of such assignment; or

2723 (f) Upon a receiver for the developer being appointed by a
2724 circuit court and not being discharged within 30 days after such
2725 appointment, unless the court determines within 30 days after
2726 such appointment that transfer of control would be detrimental

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2727 to the association or its members.

2728
2729 For purposes of this section, the term "members other than the
2730 developer" shall not include builders, contractors, or others
2731 who purchase a parcel for the purpose of constructing
2732 improvements thereon for resale.

2733 (2) Members other than the developer are entitled to elect
2734 at least one member of the board of directors of the homeowners'
2735 association if 50 percent of the parcels in all phases of the
2736 community which will ultimately be operated by the association
2737 have been conveyed to members other than the developer.

2738 Section 24. Subsection (1) of section 720.311, Florida
2739 Statutes, is amended to read:

2740 720.311 Dispute resolution.—

2741 (1) The Legislature finds that alternative dispute
2742 resolution has made progress in reducing court dockets and
2743 trials and in offering a more efficient, cost-effective option
2744 to litigation. The filing of any petition for arbitration or the
2745 serving of a demand for presuit mediation as provided for in
2746 this section shall toll the applicable statute of limitations.
2747 Any recall dispute filed with the department under ~~pursuant to~~
2748 s. 720.303(10) shall be conducted by the department in
2749 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
2750 and the rules adopted by the division. In addition, the
2751 department shall conduct ~~mandatory~~ binding arbitration of
2752 election disputes between a member and an association in
2753 accordance with ~~pursuant to~~ s. 718.1255 and rules adopted by the
2754 division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are
2755 not eligible for presuit mediation; these disputes must ~~shall~~ be

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2756 arbitrated by the department or filed in a court of competent
2757 jurisdiction. At the conclusion of an arbitration ~~the~~
2758 proceeding, the department shall charge the parties a fee in an
2759 amount adequate to cover all costs and expenses incurred by the
2760 department in conducting the proceeding. Initially, the
2761 petitioner shall remit a filing fee of at least \$200 to the
2762 department. The fees paid to the department shall become a
2763 recoverable cost in the arbitration proceeding, and the
2764 prevailing party in an arbitration proceeding shall recover its
2765 reasonable costs and attorney ~~attorney's~~ fees in an amount found
2766 reasonable by the arbitrator. The department shall adopt rules
2767 to effectuate the purposes of this section.

2768 Section 25. Subsection (6) is added to section 720.3075,
2769 Florida Statutes, to read:

2770 720.3075 Prohibited clauses in association documents.—

2771 (6) An association may extinguish a discriminatory
2772 restriction as provided in s. 712.065.

2773 Section 26. Section 720.316, Florida Statutes, is amended
2774 to read:

2775 720.316 Association emergency powers.—

2776 (1) To the extent allowed by law, unless specifically
2777 prohibited by the declaration or other recorded governing
2778 documents, and consistent with s. 617.0830, the board of
2779 directors, in response to damage or injury caused by or
2780 anticipated in connection with an emergency, as defined in s.
2781 252.34(4), ~~event~~ for which a state of emergency is declared
2782 pursuant to s. 252.36 in the area encompassed by the
2783 association, may exercise the following powers:

2784 (a) Conduct board meetings, committee meetings, elections,

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2785 or membership meetings, in whole or in part, by telephone, real-
2786 time videoconferencing, or similar real-time electronic or video
2787 communication after notice of the meetings and board decisions
2788 is provided in as practicable a manner as possible, including
2789 via publication, radio, United States mail, the Internet,
2790 electronic transmission, public service announcements,
2791 conspicuous posting on the common area association property, or
2792 any other means the board deems appropriate under the
2793 circumstances. Notice of decisions may also be communicated as
2794 provided in this paragraph.

2795 (b) Cancel and reschedule an association meeting.

2796 (c) Designate assistant officers who are not directors. If
2797 the executive officer is incapacitated or unavailable, the
2798 assistant officer has the same authority during the state of
2799 emergency as the executive officer he or she assists.

2800 (d) Relocate the association's principal office or
2801 designate an alternative principal office.

2802 (e) Enter into agreements with counties and municipalities
2803 to assist counties and municipalities with debris removal.

2804 (f) Implement a disaster or an emergency plan before,
2805 during, or ~~immediately~~ following the event for which a state of
2806 emergency is declared, which may include, but is not limited to,
2807 turning on or shutting off elevators; electricity; water, sewer,
2808 or security systems; or air conditioners for association
2809 buildings.

2810 (g) Based upon the advice of emergency management officials
2811 or public health officials, or upon the advice of licensed
2812 professionals retained by or otherwise available to the board,
2813 determine any portion of the common areas or facilities

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2814 ~~association property~~ unavailable for entry or occupancy by
2815 owners or their family members, tenants, guests, agents, or
2816 invitees to protect their health, safety, or welfare.

2817 (h) Based upon the advice of emergency management officials
2818 or public health officials or upon the advice of licensed
2819 professionals retained by or otherwise available to the board,
2820 determine whether the common areas or facilities ~~association~~
2821 ~~property~~ can be safely inhabited, accessed, or occupied.
2822 However, such determination is not conclusive as to any
2823 determination of habitability pursuant to the declaration.

2824 (i) Mitigate further damage, injury, or contagion,
2825 including taking action to contract for the removal of debris
2826 and to prevent or mitigate the spread of fungus, including mold
2827 or mildew, by removing and disposing of wet drywall, insulation,
2828 carpet, cabinetry, or other fixtures on or within the common
2829 areas or facilities or sanitizing the common areas or facilities
2830 ~~association property~~.

2831 (j) Notwithstanding a provision to the contrary, and
2832 regardless of whether such authority does not specifically
2833 appear in the declaration or other recorded governing documents,
2834 levy special assessments without a vote of the owners.

2835 (k) Without owners' approval, borrow money and pledge
2836 association assets as collateral to fund emergency repairs and
2837 carry out the duties of the association if operating funds are
2838 insufficient. This paragraph does not limit the general
2839 authority of the association to borrow money, subject to such
2840 restrictions contained in the declaration or other recorded
2841 governing documents.

2842 (2) The authority granted under subsection (1) is limited

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2843 to that time reasonably necessary to protect the health, safety,
2844 and welfare of the association and the parcel owners and their
2845 family members, tenants, guests, agents, or invitees, and to
2846 mitigate further damage, injury, or contagion and make emergency
2847 repairs.

2848 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
2849 of emergency declared by executive order or proclamation of the
2850 Governor pursuant to s. 252.36, an association may not prohibit
2851 parcel owners, tenants, guests, agents, or invitees of a parcel
2852 owner from accessing the common areas and facilities for the
2853 purposes of ingress to and egress from the parcel when access is
2854 necessary in connection with:

2855 (a) The sale, lease, or other transfer of title of a
2856 parcel; or

2857 (b) The habitability of the parcel or for the health and
2858 safety of such person unless a governmental order or
2859 determination, or a public health directive from the Centers for
2860 Disease Control and Prevention, has been issued prohibiting such
2861 access to the parcel. Any such access is subject to reasonable
2862 restrictions adopted by the association.

2863 Section 27. This act shall take effect July 1, 2021.